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LETTER DATED 11 JULY 1997 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached communication dated 10 July 1997 from the High Representative, Mr. Carlos Westendorp, on the implementation of the Peace Agreement on Bosnia and Herzegovina (see annex).

I would appreciate your bringing it to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

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Annex

Letter dated 10 July 1997 from the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

I have the honour to transmit to you the sixth report on the activities of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina (see appendix). I would appreciate your making the present report available to the Security Council.

(Signed) Carlos WESTENDORP

Appendix

Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General

I. INTRODUCTION

1. By its resolution 1112 (1997) of 12 June 1997, the Security Council endorsed my appointment as High Representative and reaffirmed the importance of the role of the High Representative "in monitoring the implementation of the Peace Agreement and giving guidance to and coordinating the activities of the civilian organizations and agencies involved in assisting the parties to implement the Peace Agreement".

2. Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit reports from the High Representative in accordance with Annex 10 of the Peace Agreement and Conclusions of the London Conference of 8 and 9 December 1995, I herewith present the present report to the Council.

3. The report covers developments in the areas listed below during the period from the beginning of April 1997 to the end of June 1997.

II. INSTITUTIONAL ASPECTS

Office of the High Representative

4. In the period described certain positive results in setting up peaceful life in Bosnia and Herzegovina have been achieved by the joint efforts of the international community and Bosnian parties. At present the main responsibility for the realization of the civilian component of the Peace Agreement lies with the Bosnia and Herzegovina authorities - the common institutions and leadership of the entities. Only the coordinated, constructive work of the representatives of all three peoples could make the peace process in the country irreversible. Regrettably, a lack of political will to cooperate constructively, the danger of the renewal of confrontation mentality, mutual mistrust and accusations continue to stall the peace process. This should not be accepted. It is therefore extremely important to preserve and develop the positive dynamics, to strengthen the basis of "the common Bosnian house". I believe that this could be achieved by the consistent implementation by all sides of the requirements clearly prescribed in the Sintra Declaration.

5. My headquarters in Sarajevo and the secretariat in Brussels have, in the period under review, continued to maintain operational coordination of civilian implementation activities inside Bosnia and Herzegovina, as well as contacts with the headquarters of the respective implementation organizations and agencies, closely following, so far as possible, the various international forums dealing with the Bosnian peace process.

6. As specified in the Arbitration Award of 14 February and the Vienna Conclusions of 7 March, the Deputy High Representative appointed to serve as a Supervisor of Brčko is operating within the existing Office of the High Representative structure. He set up his office in Brčko on 11 April. He has established close cooperation with all implementing international organizations. The United Nations Mission in Bosnia and Herzegovina (UNMIBH), including the International Police Task Force (IPTF) and the United Nations Civil Affairs Office, are co-located with the Supervisor's Office to facilitate coordination and to reduce running costs.

7. The establishment of functioning common institutions of Bosnia and Herzegovina, as well as regional coordination and monitoring of the situation on the ground, has been a priority. My regional offices in Mostar, Tuzla and Banja Luka continued to facilitate contacts at a local level, promoting inter-entity cooperation.

8. During the period described the termination of assignments of the majority of international staff seconded to the Office of the High Representative by the respective Governments resulted in substantial personnel turnover. I'm thankful to the Governments who have replaced or extended the terms of duty of the staff. However, steady contribution in this field would seem to be necessary.

Peace Implementation Council

9. The international community was determined to reinforce its complete commitment to the Peace Agreement for Bosnia and Herzegovina as the only means of securing a viable future for the people of Bosnia. There was a further determination that the authorities in Bosnia and Herzegovina themselves should be reminded of their own obligations under the Agreement and be pressed to strengthen further the peace process.

10. The meeting on 2 April of the Steering Board of the Peace Implementation Council, held in Istanbul at the level of Political Directors, therefore examined ways in which the implementation of the Peace Agreement could continue to be propelled forwards. As a consequence, a meeting at Ministerial level of the Peace Implementation Council's Steering Board took place on 30 May 1997 at Sintra, Portugal, to which were invited the authorities of Bosnia and Herzegovina. The Political Declaration made at that meeting (see S/1997/434, annex) set out in clear terms exactly what was the performance expected of the authorities in the coming months, including a number of specific actions to be undertaken without delay.

III. COORDINATION OF CIVILIAN IMPLEMENTATION

Overall coordination

11. Senior representatives of the key implementation agencies lent their weight to the proceedings of the meeting in Sintra. Otherwise, the process continued of convening a meeting of those agencies at my office in Brussels immediately following each meeting of the Steering Board.

12. Regular discussions with the representatives of Governments and organizations have been maintained at all levels. I have made determined efforts to consult personally with concerned leaders and value highly the support I receive from them. My secretariat in Brussels has been especially engaged in this maintenance of the closest possible contacts with international partners and, further, in the provision of essential longer-range forecasting of issues related to civilian implementation.

13. In Sarajevo, I have continued to convene, on a regular basis, Principals meetings with the participation of the Special Representative of the Secretary-General, the IPTF Commissioner, the Special Envoy of the Office of the United Nations High Commissioner for Refugees, the Commander of the Stabilization Force (SFOR) and the Head of Mission of the Organization for Security and Cooperation in Europe (OSCE).

14. The Economic Task Force, which meets on a regular basis in Sarajevo, has been strengthened through the creation of an Economic Task Force secretariat. The Economic Task Force continues to be the central tool to ensure coordination of economic policy principles and priorities of international reconstruction assistance.

15. The Reconstruction and Return Task Force has brought together the key agencies and organizations concerned with economic reconstruction and the return of refugees. The Task Force has sought to maximize the impact of limited resources in support of sustainable return. In its report, which was presented to the donor community and host countries in April, the Task Force identified a major funding gap in the housing sector. Among its recommendations is an appeal to host countries not to repatriate persons who would be in the ethnic minority upon return, and to provide repatriation incentive schemes and guarantees for housing loan schemes. At present the Task Force is in the process of establishing regional task forces.

16. The Human Rights Task Force met on 7 May and reviewed progress in the priority areas identified at its last session, including human rights institution-building, development of a human rights culture through public information, education and democratization initiatives, strengthening the rule of law. The Human Rights Coordination Centre Steering Board continued its work in restructuring coordination efforts to address longer-term initiatives, as well as monitoring and response to more immediate issues, and has established specialized teams within the Centre to address issues of special importance.

17. The Freedom of Movement Task Force has continued to be a valuable forum for exploring various ways to promote freedom of movement for people, goods and services.

Common institutions of Bosnia and Herzegovina

18. The Presidency, Council of Ministers and Parliamentary Assembly, provided for in Annex 4 of the Peace Agreement, continue to meet regularly, but, owing to the lack of an administrative structure and the still outstanding decision on a final location, with minimum output. Little is achieved without prompting by,

or support from, my Office. With the passage of the quick start package in late June, the opportunity now exists to focus the common institutions on the need to put in place the essential staff and structures to support them and implement their decisions.

19. The Sintra Declaration of 30 May laid out a clear set of guidelines and goals over the months ahead. This has injected some impetus into the work of the common institutions; it must be maintained. A series of tight deadlines have been established, twinned with possible non-compliance measures. It is essential that the focus is kept on these goals; the international community must be ready to take the necessary action and apply the appropriate pressure should the institutions fall behind their commitments.

Presidency

20. The Presidency held four regular working sessions during the reporting period. Specific tasks and deadlines set by the Sintra Declaration triggered a new lease of life to the work of the Presidency. The Presidency agreed upon the Central Bank Law and the Budget Law, and established a working group on Bosnia and Herzegovina common flag and symbols.

21. Discussions on the staffing of the Ministry of Foreign Affairs and the diplomatic-consular network of Bosnia and Herzegovina have taken priority in the most recent sessions. While an agreement appears to have been reached on the number of embassies and consulates for Bosnia and Herzegovina, several key issues, such as the exact division of posts, or the location of the Ministry itself, remain unresolved.

22. There are a number of other crucial issues the Presidency has yet to address including the establishment of diplomatic relations between Bosnia and Herzegovina and the Federal Republic of Yugoslavia.

Council of Ministers

23. The Council of Ministers was the most active of all the common institutions, with eight official sessions, a number of "extraordinary" sessions, and a two-day working retreat in Croatia. My Office worked intensively with the Council members, Deputy Ministers and their staff to push through the adoption of the quick start package of essential legislation, culminating in its passage through Parliament on 20 June. During this period, the Council also considered matters ranging from civil aviation to telecommunications, but with no discernible results.

24. In the absence of administrative structures, the Council remains, effectively, little more than an extended working group. Despite a decision on 15 April to create a limited secretariat-like group consisting of representatives from the staffs of each of the Chairs, there is still no effective coordination, and much time is consumed at each session discussing agendas and meeting mechanics.

25. My priority will be to change this situation, and to work to ensure that this institution is equipped to deal effectively with its pressing agenda. Many

of the Sintra commitments require immediate action of the Council, including citizenship and passports, border openings, inter-entity telecommunications, civil aviation, and the presentation and adoption of the next package of essential legislation (quick start package II).

Parliamentary Assembly

26. Both Houses of the Parliamentary Assembly of Bosnia and Herzegovina held their third sessions at the National Museum in Sarajevo on 20 June 1997. They adopted seven laws, on the Central Bank, foreign debt, foreign trade, customs policy, customs tariffs, immunity and budget/budget execution from the quick start package legislation.

27. My Office organized the first constitutive session of the Bosnia and Herzegovina Constitutional Court on 23 May. It was attended by all nine judges (six nominated by the entities' parliaments and three international). A working group, made up of several of the Court's members including one of the international judges, in which my Office participates, is meeting regularly to draft the rules of procedure of the Court.

28. The Parliament of Bosnia and Herzegovina approved the Central Bank Law on 20 June 1997. Still outstanding is agreement on the design of the coupons that will be issued by the Central Bank. An agreement may be forthcoming in a matter of days; it is the sole remaining issue to be resolved for the letter of intent to the International Monetary Fund (IMF) which, in turn, opens the way for the donors conference. Intensive work is ongoing to make the Central Bank operational by the scheduled date in mid-August. The Board of Governors, with the assistance of IMF, has laid out the organizational structure of the Central Bank. I expect appointment of senior management to occur shortly.

29. In accordance with the Sintra Declaration, the Standing Committee on Military Matters held its inaugural session on 1 June. This was followed by a working session at Defence Minister level on 4 June at which the rules of procedure were formulated. The rules of procedure were worked on at the following sessions of the Standing Committee on Military Matters held on 16 and 20 June and at the last session of the Presidency on 27 June. During discussions, chaired by my Office and attended by SFOR and OSCE, the controversies have been reduced to two outstanding issues: chairmanship and membership of the Standing Committee on Military Matters.

Essential legislation

30. A draft law on citizenship of Bosnia and Herzegovina has been prepared by one of the working groups appointed by the Council of Ministers, in close cooperation with my Office and with the Council of Europe. Some politically sensitive issues were not agreed upon, and the Council of Ministers, which has received the draft law for adoption, will have to solve these issues.

31. As soon as the law on citizenship of Bosnia and Herzegovina is adopted, the two entities will need to harmonize their citizenship laws with that law. My

Office will, in cooperation with the Council of Europe, offer its assistance to the entities in this respect; the process should start as soon as possible.

32. The draft law on passports, which regulates the form of the passports and the way in which they are issued, is also before the Council of Ministers for adoption. As the working group was not able to decide on the design of the Passport and on the competence to issue, these matters must be solved by the Council of Ministers.

33. Legislation adopted by the Bosnia and Herzegovina Parliamentary Assembly does not enter into force before official publication. The Council of Ministers, on its own initiative, has agreed on a law on the Official Gazette of Bosnia and Herzegovina. It is now before the Bosnia and Herzegovina Parliamentary Assembly.

Joint commissions

34. Activities of the Provisional Election Commission (annex 3), chaired by OSCE, are referred to in the elections sections of the present report.

35. The Commission on Human Rights (annex 6) and the Commission for Real Property Claims (annex 7) continued their work. Despite the importance of these institutions, the Bosnia and Herzegovina and entity authorities have made few discernible efforts to bring them into their legal systems, and their cooperation and compliance with these institutions remain substantially inadequate.

36. The Human Rights Chamber, the Ombudsperson, and the Commission for Real Property Claims all face serious funding shortfalls. At its meeting in Sintra, the Steering Board called for immediate action by the authorities to provide for funding of these institutions through the budget of the Bosnia and Herzegovina common institutions.

37. Despite the critical funding situation, the work of all three institutions continues to expand. As of 30 June, the office of the Human Rights Ombudsperson had opened 1,692 provisional files, registered 713 cases, issued 10 final reports in individual cases and eight special reports; 38 requests for interim measures have been successful, and 21 have not been implemented by the authorities. To date, the Human Rights Chamber has registered 43 cases and rendered 11 decisions on admissibility of applications. As of 24 June, the Commission for Real Property Claims had received approximately 31,000 claims, rendered about 1,400 decisions, and sent 450 advisory opinions to the Supervisor in Brčko. In addition to its offices in Sarajevo, Lukavica and Mostar, the Commission opened three claims collection offices in the Brčko area in June.

38. The Bosnia and Herzegovina authorities have yet to nominate an official agent to liaise with the Chamber. The Federation has conducted an eviction in contravention of an interim measure order issued by the Chamber, and the Republika Srpska has failed to respond to witness summonses from the Chamber. Similarly, the Ombudsperson is confronted by a lack of cooperation from authorities at all levels, although to differing degrees.

39. My Office will continue to work with the Commission on Human Rights and the Property Commission to ensure full cooperation by the authorities and implementation of the recommendations of each institution, including through the drafting of implementation legislation, where appropriate. My Office will also monitor and coordinate intervention in cases in which the authorities have failed to cooperate with the Human Rights Chamber, the Ombudsperson or the Property Commission, or in which their decisions are not respected.

40. The Commission to Preserve National Monuments (annex 8), coordinated and financed by the United Nations Educational, Scientific and Cultural Organization (UNESCO), has established its working secretariat as well as a scientific secretariat in Paris. The Commission held its fourth session on 12 and 13 May and made a first selection of monuments and sites, with the intention of producing a consolidated list of designated national heritage.

41. The Commission on Public Corporations (annex 9) has not provided guidance to the technical working groups, which have been created to examine specific operational problems. The situation is particularly acute in the power and railway sectors. I have urged the Prime Ministers of the two entities to examine the overall problem of public corporations and resolve the underlying political impasse. In addition, my legal department has issued a legal opinion on the status of the separate companies and corporations that came into being during the war.

Elections

42. Sound municipal elections conducted within the framework of the newly established common institutions, as well as the entity institutions, will be of crucial importance to the future development of Bosnia and Herzegovina. Since my last report OSCE has continued its supervision of the preparation and conduct of the municipal elections.

43. The Provisional Election Commission continued its regulatory work for the municipal elections, with special attention paid to the areas of Mostar and Brčko. It was decided that the elections in Mostar will take place in the six city-municipalities as well as in the City Council. The elections will be conducted under the rules and regulations enacted by the Provisional Election Commission, with the exception of the allocation of seats, which shall be carried out in accordance with the relevant articles of the Interim Statute of Mostar. By doing so, it will be possible to allocate fully all seats for the Mostar City Council, including those reserved for the "group of others". Furthermore, the Provisional Election Commission decided that an annex on Brčko should be appended to the rules and regulations in which the role of the Brčko Supervisor was underlined.

44. The affirmative voter registration in Bosnia and Herzegovina, which will clearly define the electorate, commenced on 5 May. As reported earlier, the Provisional Election Commission enacted rules allowing refugees to vote in an intended place of residence, as well as giving displaced persons the right to vote where they currently reside, provided they prove continuous residence before 31 July 1996. The full international supervision of the registration

process has disclosed registration irregularities as well as fraudulent attempts to register voters in certain areas: Banja Luka, Prijedor, Gradiska, Kotor Varos, Srpski Drvar, Srpski Kljuc/Ribruk, Brčko, Zepce, and Capljina. Where claims have been substantiated, candidates have been struck from party lists, members of local election commissions and voter registration centres removed and voters re-registered. These efforts to safeguard the integrity of the registration process should promote an overall acceptance of the final voters register, thus delivering elections of higher standards than in 1996.

45. A solution to the territorial reorganization within the Federation has not been found, thus leaving 18 municipalities divided by the inter-entity boundary line without governing authorities. The Federation Parliamentary Assembly has not yet adopted the law on territorial reorganization and new municipalities; hence effectively disenfranchising approximately 60,000 voters in the forthcoming municipal elections. At this advanced stage in the electoral process, it is no longer operationally possible to include these voters in the electoral process, should a law be adopted.

46. As prescribed by the London Peace Conference, OSCE established an inter-agency post-election planning group with the responsibility to plan for the implementation of the election results and the management of the post-election period. An election implementation plan was agreed between the OSCE Mission and my Office based on the principles that implementation of the election result are: the responsibility of the Bosnia and Herzegovina authorities; an integral part of the electoral process and, therefore, will be firmly anchored in the rules and regulations; certified in a two-step process ensuring that final certification is not issued before the successful installation of municipal councils has taken place.

47. The Election Implementation Plan was endorsed in Sintra on 30 May 1997. According to this plan, management of the post-election period will be conducted by monitoring the authorities' implementation of the election results, and by closely coordinating an international response in case of non-compliance. To that end, the plan envisages the enactment of an inter-agency national election results implementation committee and its substructures.

Federation issues

48. The security climate throughout the Federation has continued to improve, including in Mostar. Some essential legislation, however, which is politically blocked in the Federation Houses and the Cantonal assemblies, is hampering the implementation process.

49. Adoption of a Bosniak proposed draft law on Split and new municipalities by the House of Representatives has resulted in the Croatian Democratic Union (HDZ) boycotting the sessions. In view of the approaching municipal elections and the failure of the Federation Parliament to reach a compromise on the Municipality Law, disenfranchisement of 60,000 electorates living in divided municipalities in the Federation seems to be unavoidable.

50. Sarajevo City, with a guaranteed sharing of governance by all three communities, is still not established. The Amendments to the Federation Constitution regarding Sarajevo and Mostar were adopted by both Houses, however, despite the decisions of the Federation forum of 14 April and the Federation meeting on 6 June, the amendments to the Constitutions of Herzegovina-Neretva and Sarajevo Cantons have been stalled at the cantonal level. The Mostar HDZ is still not prepared to enshrine the principles of a unified city in the Canton Constitution.

51. The Federation meeting of 6 June also stipulated the establishment of the integrated cantonal police force of the Herzegovina-Neretva Canton effective as of 16 June, and to be completed by the beginning of July. Despite the urgency, HDZ of the Canton objected to the breakdown of the national composition of the Cantona, police, and the Bosniaks raised security concerns for Bosniak police in the areas of Croat majority, raising serious obstacles to the establishment of joint police forces.

Republika Srpska

52. Since my last report (S/1997/310, annex, appendix), the National Assembly of the Republika Srpska held four sessions. The process of forming the legal basis in Republika Srpska is continuing. I am, however, concerned that a number of laws adopted by the National Assembly contain provisions not in accordance with the Bosnia and Herzegovina Constitution. My Office has presented a number of proposed amendments to bring the laws in line with the Bosnia and Herzegovina Constitution; the Law on Internal Affairs will be reviewed by the Council of Europe.

53. Despite the constitutional shortcomings of the "Agreement on Special Parallel Relationships" between the Republika Srpska and the Federal Republic of Yugoslavia, the Republika Srpska Government continues attempting to implement it. Within the framework of the agreement, the Republika Srpska signed with the Federal Republic of Yugoslavia and Serbia a number of protocols on: regulating traffic of goods and services, health protection, education, science and culture, traffic and communication, etc. No progress has been made to bring the agreement in line with the Bosnia and Herzegovina Constitution; the Federal Republic of Yugoslavia has yet to nominate two members to the working group, chaired by my Office, established to this end.

54. During the reporting period, the deputies of the National Assembly elected in the territory of the Federation continued to participate in its work without taking an oath or encountering serious problems or obstacles. My Office and IPTF provided logistical support to deputies from the Federation.

55. On 28 June, the Republika Srpska President took the decision to suspend the Minister of Interior, owing to corruption allegations. As the Government, guided by the leadership of the Serbian Democratic Party (SPS) in Pale, refused to follow both this and her subsequent decision to dissolve the Parliament, a serious constitutional and political crisis erupted which, in the first few weeks of July, is far from being resolved. This crisis mirrors a growing rift between SDS hardliners and those who wish to implement the Peace Agreement, and could potentially have serious repercussions on the implementation process.

56. I proceed from the assumption that the Republika Srpska President decision to dissolve the Republika Srpska Assembly was in conformity with the provisions of its Constitution. In this context, I attach the utmost importance that the organs of the Republika Srpska act in accordance with the constitutional order, i.e. the Bosnia and Herzegovina and Republika Srpska Constitutions, as well as the Peace Agreement.

Media

57. The media climate in Bosnia and Herzegovina remains far from perfect, especially in the Republika Srpska and Western Herzegovina. It is widely accepted that there is a close relationship between control of the media and political activities, also indeed with the will to comply with the Peace Agreement. My Office continues to monitor the local media both independently, and in the framework of the Media Expert Commission of OSCE. We are exploring how we can follow up the provision in the Sintra Declaration that the High Representative has the right to curtail or suspend any media network or programme whose output is in persistent and blatant contravention of either the spirit or the letter of the Peace Agreement. The coordinating role of the Office of the High Representative with regard to independent media continues, with monthly meetings of all major donors taking place in my offices in Sarajevo.

58. The Sintra Declaration also endorsed the aim that, by the end of the year, every sizeable commune in Bosnia and Herzegovina should have access to independent radio or television reporting - and called upon Governments to continue to support the second stage of development of the Open Broadcast Network and to draw up a plan to this effect to be coordinated by my Office. This is in the process of being carried out by my Office, in the shape of a third stage of development of the Open Broadcast Network. The second stage is well advanced, with much of the US$ 6 million pledged going towards the all-important entrenching of the Banja Luka affiliate of the Open Broadcast Network, Alternativna Televizija.

59. There has been welcome progress on the Open Broadcast Network since my last report, coordinated by my Office as Chairman of the Governing Council and the Steering Committee. The Open Broadcast Network reached an agreement in May with the Sarajevo station TVX as a result of which the Network's full (six hour) programme output can now be seen in Sarajevo, as well as in the other main Federation cities and in Banja Luka.

60. The Federation Forum Special Group on Media Issues, co-chaired by my Office and the Government of the United States of America, is in the process of establishing two joint Bosniak/Croat commissions to develop a Federation media law, and to carry out an inventory of broadcasting assets, mainly belonging to RTV Bosnia and Herzegovina, around the Federation. Recent crisis proves that Republika Srpska media is not acting in accordance with the Dayton Accord. Action has to be taken in conformity with the relevant provisions of the Sintra Declaration.

Return of refugees and displaced persons

61. Facilitating the sustainable return of displaced persons and refugees remains critical to the overall peace implementation process in Bosnia and Herzegovina. Obstacles to return on the political level are compounded by the lack of security, administrative obstacles such as refusal of the municipal authorities to register returnees as well as to issue or accept identification cards, the shortage of funding for reconstruction in the housing, infrastructure, social infrastructure and employment sectors. Much of the pre-war housing capacity has either been destroyed or is now occupied by displaced persons, and the international reconstruction effort has been delayed because of the postponement of the donors conference. My Office is actively engaged in establishing a mechanism that will allow the limited international funds to be used in a way that will relate the notion of conditionality, reaffirmed at Sintra, to practise on the ground. More than 40,000 refugees from host countries in Europe have repatriated during the first half of 1997, and others are expected to return over the summer months. A feared influx of Serbs from Eastern Slavonia into the Republika Srpska has not taken place, but if it occurs it will exacerbate the housing problem.

62. While many displaced persons, also in Republika Srpska and Croat controlled areas of the Federation, are signalling their wish to return to areas where they would no longer be in the ethnic majority, there have been few successful minority returns. The Open Cities initiative by the Office of the United Nations High Commissioner for Refugees (UNHCR) signals a renewed focus on facilitating minority returns by the international community. My Office is prepared to assist in coordinating efforts that build on the desire of people to return and local receptivity to returns.

63. Many of the overall civilian implementation tasks coordinated by my Office, such as the building of common institutions, supporting economic reconstruction, creating communications and transport links between the entities, and providing a basis for a functioning civil society are fundamental to creating the necessary conditions for the return of displaced persons and refugees. In relation to return specifically, my Office has continued to concentrate its efforts in three main fields developing links between economic reconstruction and the return of refugees under the Reconstruction and Return Task Force; support for the Coalition for Return; and the implementation of the procedures for return to Brčko and for return and reconstruction in the zone of separation.

Freedom of movement

64. Freedom of movement remains an overriding commitment in the Bosnia and Herzegovina Constitution and the Peace Agreement. It is a key factor opening up the economy, access for the elections, and for returns. I can report that there is a gradual improvement in some areas. However, more has to be done to create confidence in travelling throughout Bosnia and Herzegovina.

65. The UNHCR cross-inter-entity boundary line bus programme has continued to be a success. It is now used by some 11,500 people per week, including 5,000 journeys per week in Sarajevo alone. There were over 100 successful graveyard

visits during Bayram in April and May, and some 45,000 pilgrims travelled without hindrance to Sarajevo for the Papal Mass on 13 April. Since the signing of the customs administration agreement between the entities, over 700 trucks transporting imports and exports have crossed the inter-entity boundary line.

66. In the Brčko area, freedom of movement is slowly improving. At the beginning of May two UNHCR bus routes across the inter-entity boundary line were opened. On 1 June the Brčko road bridge was opened to private citizens and commercial traffic. The numbers using the bridge grows each day.

67. On 15 May, IPTF and SFOR introduced a revised checkpoint policy to improve freedom of movement by reducing the number of static checkpoints, whilst promoting better policing techniques. The policy made illegal any checkpoint that did not have prior IPTF approval. Exceptions were made for emergencies and traffic control. The Federation accepted the policy. However, the Republika Srpska Government and Assembly formally rejected it, claiming IPTF and SFOR were operating beyond their respective mandates. The Republika Srpska Interior Minister instructed his police not to cooperate with the policy, but generally the Republika Srpska police have avoided confrontation, and there have been isolated pockets of compliance. In my view the Republika Srpska instruction not to cooperate with the policy is a breach of commitments made in Annex II of the Peace Agreement.

68. Illegal checkpoints in both entities have been dismantled. SFOR support has been crucial, and I welcome the close cooperation between IPTF and SFOR. They will continue to enforce the policy.

69. Although the number of checkpoints has been reduced, more has to be done to increase confidence. My Office therefore continues to promote steps to issue binding instructions to all relevant authorities requiring compliance with the "rules of the roads", to ensure that no arrests of war crimes suspects occur prior to a response by the International Tribunal for the Former Yugoslavia finding sufficient evidence for detention. I am continuing to promote commercialization of bus routes, and to establish a common car number plates system in accordance with the Sintra Declaration. I will interpret a failure to implement this as a case of non-compliance, with consequences for the release of financial assistance.

70. In the longer term, police restructuring and retraining according to democratic principles, remains a priority and will make a significant improvement to freedom of movement. Some progress has been made in the Federation, but the Republika Srpska has failed to meet its commitment to start the process. The Sintra Declaration called upon the parties to accelerate the process. But progress continues to be blocked by political interference in both entities. Efforts have to be made by the international community to loosen the grip of political leaders and parties on the local police if significant progress is to be achieved. My Office is re-examining the definition of authorized policemen referred to in annex 1a.

Missing persons, mass graves

1. The issue of missing persons remains highly volatile after more than a year f halting and inadequate progress. The exact number of missing persons is ncertain: the International Committee of the Red Cross (ICRC) has received racing requests for more than 19,300 persons; the Bosniak authorities estimate he number of missing to be closer to 30,000. To date, the status of pproximately 1,100 missing individuals has been clarified.

72. An initial trench of cross-inter-entity boundary line collection of mortal remains at two sites - one in the Federation and one in the Republika Srpska - was successfully concluded in May. Owing to the intransigence of the parties, agreement has not yet been reached on the next sites to be exhumed.

73. Under the auspices of the Expert Group on Exhumations and Missing Persons, chaired by my Office and consisting of several international organizations, a number of efforts are under way to assist the joint exhumation and identification process. These include projects by Physicians for Human Rights to train Bosnian scientists and technicians in exhumation techniques, to provide a coordinator for international forensic monitoring of exhumations, to establish an ante-mortem database and to assist the parties in the identification of mortal remains.

74. The International Commission on Missing Persons has established a fund to aid family associations of missing persons. The Commission has also supported the creation of the ante-mortem database, the identification project and additional equipment for exhumations and autopsies. The donation of equipment by the Commission will supplement equipment already supplied by the Government of Switzerland. Although beneficial, these projects cannot by themselves resolve the many issues relating to missing persons. Additional resources, security for exhumation sites, and substantial political will are required if this issue is to be addressed effectively.

Human rights

75. Concrete steps need to be taken by the authorities to demonstrate their commitment to protecting human rights, a fundamental precondition to facilitating returns and to achieving social stability and economic development. These steps include changing laws that are not in compliance with the Constitution of Bosnia and Herzegovina, which incorporates the European Convention on Human Rights; improving security conditions and freedom of movement; protecting the right to fair trial and ensuring the rule of law, and providing opportunities for equal access to employment, housing education and other public services, including documents.

76. At its meeting in Sintra, the Steering Board called for both entities to amend their property laws to eliminate the substantial barriers to return and recommended that support for housing reconstruction be conditioned on these steps. My Office has presented the entities with proposed property legislation, which should be adopted by their parliaments as a matter of urgency.

77. An unsatisfactory human rights situation prevails in both entities. Violations of freedom of movement, harassment, violence, destruction of property, and discrimination on the basis of ethnicity and political affiliation continue to be reported, particularly in the Republika Srpska and in Croat-majority areas. In the majority of these cases, police have failed to take effective action to prevent or respond to incidents, and not cooperated with international monitors or complied with their requests for intervention.

78. International interventions have recently resulted in some improvement in both municipalities. However, interventions have gone unheeded in many other cases. The west Mostar authorities have recently refused requests by international organizations, including my Office and UNHCR, to respect the findings of the Federation Ombudsmen by reinstating five families who were illegally evicted from their homes in 1996. The Banja Luka police have consistently failed to enforce court decisions for the reinstatement of 38 minority families, despite interventions by a number of international organizations, including the Human Rights Ombudsperson for Bosnia and Herzegovina. Numerous interventions with the Republika Srpska authorities on the ongoing abuses of the rights of minority residents and returnees in Teslic have had little impact on conditions there and the situation in Stolac, Drvar and Jajce is still unsatisfactory.

79. IPTF has conducted independent investigations into police involvement in human rights violations and has intervened with the authorities on these cases, including in Mostar, Brčko, Drvar and Gajevi. As a result, action has been taken against some individuals, including policemen. However, my Office and the Human Rights Ombudsperson for Bosnia and Herzegovina are concerned that the authorities in west Mostar continue to ignore the international community's demands that a full investigation and judicial proceedings based on new indictments be carried out in the cases of the three west Mostar policemen involved in the 10 February shooting incident, and that two other west Mostar policemen be suspended from their posts pending investigations into their involvement in the incident. IPTF has also investigated allegations of police assaults on persons in their custody in Sarajevo, Velika Kladusa, Banja Luka and in other areas.

80. Freedom of movement for visits and returns has improved in some locations, though several serious incidents occurred during the reporting period. In March, a Serb man died of injuries he sustained after he was attacked by a group of Bosniak displaced persons while visiting a family grave site in the Visoko area. In June, the body of a Bosniak man, who had been reported missing after he boarded a bus to the Federal Republic of Yugoslavia in Sarajevo, was found by Republika Srpska police in Rudo. A number of other cases of harassment and threats to minority visitors and travellers have been reported, including in Kiseljak, Brčko and Doboj.

81. Though there have been few reports of politically motivated harassment or violence compared to the period prior to the 1996 elections, my Office continues to closely monitor the situation in the run-up to the municipal elections. Several cases of harassment of journalists working for independent media outlets have recently been addressed by international monitors and the Media Experts Commission.

Cooperation with the International Tribunal for the Former Yugoslavia and strengthening the rule of law

Cooperation with the Tribunal on cases of indicted persons

82. Cooperation with the International Tribunal for the Former Yugoslavia remains a key part of the process of peace implementation. The failure to hand over indicted persons remains a matter of grave concern, the presence of which is a continuing threat to the peace process. This applies to Bosnia and Herzegovina, in particular Republika Srpska and parts of the Federation, as well as to the Republic of Croatia and the Federal Republic of Yugoslavia.

83. In Bosnia and Herzegovina, the failure of responsible authorities, particularly in the Republika Srpska, to fulfil their legal obligation to cooperate with the Tribunal continues. The Republika Srpska has refused to arrest and surrender persons indicted by the Tribunal, relying on a provision in their Constitution which is clearly superseded by the Constitution of Bosnia and Herzegovina and the Peace Agreement. Concurrently, Bosnian Croat authorities have failed to arrest the numerous indicted persons who reside in or visit areas of the Federation previously under the control of the Croatian Defence Council.

84. International monitors and the media have documented and publicized the current whereabouts of a number of persons who have been indicted by the Tribunal, some of whom are believed to be working in a public capacity, including as police. In my last report to the Secretary-General, I noted that persons indicted by the Tribunal are believed to be living, and in some cases working in a public capacity, in the municipalities of Prijedor, Bosanski Samac, Foca and Vitez. There also continue to be reports involving the ongoing influence of Radovan Karadžić in the Republika Srpska.

85. The responsible authorities must take immediate steps to execute arrest warrants for persons indicted by the Tribunal and surrender all indicted persons to the Tribunal. Domestic laws and constitutional provisions that are used as reasons for avoiding such steps are clearly superseded by the Bosnia and Herzegovina Constitution and other Annexes of the Peace Agreement, and must be amended accordingly. Authorities must not cooperate with or condone any indicted persons.

86. At its meeting in Sintra, the Steering Board expressed its willingness to consider further recommendations from my Office concerning measures to address the continuing influence of Karadžić in the Republika Srpska, and noted my proposal that persons cooperating with, or condoning the role of, indicted persons should be denied visas to travel abroad. My Office, in cooperation with SFOR and other international and domestic partners, is compiling the required information and will make recommendations concerning travel restrictions and other measures concerning Karadžić's continuing influence shortly. Additional information is also being gathered on those municipalities that allow indicted persons to work in a public capacity, for distribution at the forthcoming donors conference.

Compliance with the "rules of the road"

87. The Sintra Declaration reiterated its expectation that the authorities of the Federation and Republika Srpska fully implement the measures agreed in Rome on 18 February 1996 (the rules of the road) by refraining from arresting, or detaining, war crimes suspects except in cases in which the Tribunal has reviewed the file and found sufficient evidence under international standards.

88. The Federation has taken substantial steps to implement the rules of the road during 1997. The Federation Ministry of Justice seems aware of the obligations imposed by the rules of the road and is willing to work to implement the rules of the road. However, there are still numerous cases in which they continue to be violated, notably in Bihac, where at least six people are currently detained in violation of the rules of the road. Although the Republika Srpska authorities continue to voice their willingness to comply with the rules of the road, only three cases have been submitted to the Tribunal. The in absentia trial of President Alija Izetbegovic continues in a Banja Luka court, although the Tribunal has not found sufficient evidence in that case.

89. Though there have been few arrests in violation of the rules of the road in either entity in the last six months, the real measures of both entities' failure to fully implement the rules lies not in the number of actual arrests but in the substantial impact the threat of arrest has on freedom of movement. In addition, local authorities in both entities have repeatedly referred to "lists of war crimes suspects" to block return and visits. These lists are wholly incompatible with the rules of the road process.

90. I have called upon both entities to release all persons detained in violation of the rules of the road and to submit files of all war crimes suspects to The Hague. The Ministers of Justice of the two entities have agreed to issue instructions to all relevant authorities informing them of their obligations under the rules. My Office will continue to press the authorities to comply with the rules, and will intervene in cases in which the rules are violated and coordinate monitoring of war crimes cases and trials.

91. It is of equal importance that the Tribunal must be provided with the resources it needs to fulfil its commitment to implement the rules of the road procedure in a timely manner and to monitor prosecutions and trials in national courts.

Other rule of law measures

92. The extensive list of human rights obligations which form part of the Constitution must be brought into law through the adoption of implementing legislation and by a review of existing laws to determine their compatibility with international human rights standards, in particular the European Convention on Human Rights. The Federation has now formed an expert team to reform its criminal law and criminal procedure code; the Republika Srpska must also undertake this process with expedition and involvement by international institutions, including the Council of Europe.

93. Greater efforts must also be made by the authorities to inform the public both of their rights and of the legal framework which has been created to protect those rights. My Office will continue to advocate expedited reform of the criminal justice system in both entities and protection of the rights of those persons who fall victim to current inadequacies in those laws. We will also continue to work with the Federation and Republika Srpska authorities to establish mechanisms and procedures for inter-entity judicial cooperation.

Economic reform and reconstruction

94. The economic department at my Office has been reconfigured with a view to enhance coordination with major implementation agencies and international financial institutions. A specialist in banking and finance has been hired to support private sector business development. In addition, the department's data-processing capacity has been improved. I have asked IMF, the European Community and the Government of Germany to continue to second economists to my Office. I shall give further consideration to the economic department structure.

95. In the second quarter of 1997, 11 grant agreements on reconstruction projects were signed with the authorities in Bosnia and Herzegovina. Now that the quick start package has been passed, I expect that the World Bank's Board in the coming weeks will approve five projects with a total cost of $325 million. As the resources committed during the 1996 donors conference are nearing exhaustion, the 1997 donors conference cannot be further delayed without adversely affecting the reconstruction process - and the confidence of private investors upon which prospects for a sustainable economic recovery depend. Regarding the balance of resources between the Federation and the Republika Srpska, some consensus is beginning to emerge around a 70/30 split.

96. The minimum legal framework for a viable integrated economy in Bosnia and Herzegovina has been established with the parliamentary adoption of the quick start package. Negotiations on an economic programme that can be supported with an IMF standby programme are ongoing. I trust that they will be finalized in time to facilitate a donors conference in July.

97. Infrastructure continues to be at the centre of the reconstruction effort, with a strong emphasis an employment generation. In the second quarter some 75 new contracts were signed. As of the end of June, the World Bank managed 1,340 contracts. The estimate for all donors exceeds 2,500 with a total contracts value of close to $1 billion. However, significant funding gaps remain in all major sectors. Political constraints on the ground also continue to impede project implementation in telecommunications and railways. However, mounting international pressure on the Bosniak side to join a memorandum of agreed principles in the telecommunications sector is showing results. This will open the way to a major sector project of the European Bank for Reconstruction and Development. Clearly, viable sector policies must remain a condition for donor funding also in the railway sector.

98. Regarding the Brčko area, the Supervisor has designed a programme for refugee return and has prepared for the donors conference an estimate of the

minimum expense required for stabilizing in the local economy. A commitment of commensurate funds at the donors conference, and their rapid disbursement, will be crucial for achieving the objectives of the international community.

99. The expected return of significant numbers of refugees from host countries in Europe remains a major challenge for 1997. The Return and Reconstruction Task Force, chaired by my Office, has presented in April 1997 a consensus document on the political, legal and economic approach to returns, with the participation of UNHCR; the European Community; the World Bank; the International Management Group; the Real Property Claims Commission for Refugees and Displaced Persons; and representatives of the Economic Task Force. Regarding financing constraints my Office has pointed out the need for loan financing on a cost covering basis. In response, the European Community together with the German Development Bank (KFW), is working out a concrete project expected to become operational early in the third quarter.

Civil aviation

100. Progress in the field of civil aviation continues to be mixed. The number of civil carriers operating into Sarajevo continues to rise and the demand for overflights transiting Bosnia and Herzegovina airspace has resulted in SFOR agreeing to increase the flow to 10 aircraft per hour. This has significantly enhanced the earning potential to the nation from this activity. Despite considerable efforts by my Office and SFOR the memorandums of understanding concerning the opening of the additional airports of Mostar, Banja Luka and Tuzla remain unsigned.

101. The Sintra Declaration insisted that further progress be made towards the reconstitution of the Civil Aviation Authority and stated that if the new Authority was not operational by the end of July it would be recommended that international aviation authorities cease to cooperate with the existing body. A draft proposal for a reconstituted Authority was submitted to both entities by my Office in May but did not result in an agreed position. A joint delegation from the Council of Ministers travelled to Brussels on 13 May and formally agreed that Eurocontrol would undertake the collection of overflight fees on behalf of Bosnia and Herzegovina. Eurocontrol has also undertaken to broker an interim agreement between Bosnia and Herzegovina, the Federal Republic of Yugoslavia and Croatia regarding interim fee collection agreements.

Mine clearance

102. Although the State Commission for Demining has been established it has yet to receive the funding and resources required to undertake the task. This lack of progress continues to hinder the establishment of a coordinated and effective demining programme. Demining by the entities' armed forces continues to be encouraged by SFOR but with mixed success. VRS activity is restricted to the Banja Luka areas; the Croatian Defence Council element of the Federation Army has recently suspended demining after the loss of four personnel and is insisting that they require new equipment but would prefer that the function is carried out by a specialist civilian agency; the Bosniak element of the

Federation Army is conducting limited operations. Successful demining remains vital to the reconstruction and economic development of Bosnia and Herzegovina and will continue to be monitored closely by my Office.

Regional stabilization

103. Implementation of the Agreement on Confidence- and Security-Building Measures is satisfactory. Inspections, exchanges and seminars have taken place but are not always fully supported. The continued efforts and cooperation of SFOR are vital to the advancement of this process. I fully endorse the OSCE strategy of convincing the parties that full implementation of article II of the above agreement is in their interests and welcome the initiative of forming working groups on the exchange of military information, weapons manufacturing facilities, and an open skies agreement.

104. The Sintra Declaration emphasized the need for all parties to redouble their efforts in arms reduction, and expressed concern about the failure of the Republika Srpska to implement fully its commitments on reduction and the Federation to produce the required plan for this purpose. Under-reporting of equipment declarations continues to cause concern. The full support of the international community will be needed if the required reductions are to be completed by the deadline of 1 November 1997, and a renewed sense of commitment from the parties will be essential in order to ensure this momentum when the chairmanship of the Subregional Consultative Commissions transfers from OSCE to the parties in December.

IV. COOPERATION WITH THE STABILIZATION FORCE

105. The presence of SFOR ensures that the parties pursue their goals through peaceful, political means and I envisage the need for this to continue. I and my staff have a close and most productive relationship with SFOR, the Supreme Headquarters Allied Powers, Europe (SHAPE) and the North Atlantic Treaty Organization (NATO).

106. The support that SFOR offers to civilian implementation in addition to its primary task is an essential element in the continued achievement of progress. I welcome the commencement of debate regarding the transition of SFOR from the second phase of the operation to the third phase, and the impact that this change will have on the support of civilian implementation. In the coming month, activities such as the local elections, the process of returns, and the Brčko arbitration decision will necessitate the fullest support of SFOR.

UNITED NATIONS **S**

Security Council

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S/1997/543
14 July 1997
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 7 JULY 1997 FROM THE PRESIDENT OF GABON ADDRESSED TO THE SECRETARY-GENERAL

As mediator, representing the heads of State designated by the Ouagadougou Summit of December 1996 to help find a solution to the Central African crisis, and on behalf of the Inter-African Force to Monitor the Implementation of the Bangui Agreements (MISAB), I have the honour to inform you of the following:

The disturbances that have been rocking the Central African Republic for many months remain a matter of great concern. The Government of the Central African Republic is unable to maintain law and order, and the security situation is deteriorating and threatens to worsen throughout the country, with disastrous consequences for both the civil population and regional stability.

Mindful of their responsibilities and of their commitments to support efforts to restore and consolidate peace in Central Africa, and in response to a letter dated 27 January 1997 from the President of the Central African Republic, the Presidents of Burkina Faso, Chad, Gabon and Mali have decided to set up an inter-African monitoring force.

The mandate of this force named MISAB (which is to help restore peace and security by monitoring the implementation of the agreements signed on 25 January 1997 at Bangui, and to conduct operations to disarm the ex-rebels, the militia and all other unlawfully armed individuals) and its duration (three months from 31 January 1997, renewable at the request of the President of the Central African Republic) were agreed on in a document signed on 6 March 1997. This document also lists the countries providing troops (Burkina Faso, Chad, Gabon, Mali, Senegal and Togo), describes the structure of the Force (which is to be commanded by a Gabonese officer) and specifies the political authority under which it is to operate (myself, and, on my authority, Gen. Touré, in his capacity as President of the International Committee to monitor the Bangui Agreements). Lastly, it is specified that logistical and financial support for the Force is to be provided by France and/or other contributors of funds.

MISAB has been deployed in Bangui since 8 February 1997 and now consists of approximately 800 men.

In view of the continuing tension and the threat that prolongation of the crisis is likely to constitute for the maintenance of international peace and security, the Governments members of the International Committee and the Governments of the countries participating in the Force wish to have at their disposal, as a legal framework for their intervention, a resolution under Chapter VII of the Charter of the United Nations, approving the mandate of MISAB and authorizing the intervention.

(Signed) El Hadj Omar BONGO

UNITED NATIONS **S**

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15 July 1997
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LETTER DATED 12 JULY 1997 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit herewith the text of a letter dated 12 July 1997 addressed to you by the Minister for Foreign Affairs of the Republic of Iraq, Mr. Mohammed Said Al-Sahaf, exposing the methods employed by the United States of America to obstruct the approval of contracts for the purchase of medicine, foodstuffs and other humanitarian supplies in implementation of Security Council resolution 986 (1995) and asking you to take the necessary steps to ensure effective implementation of this resolution, in accordance with the provisions of paragraph 13 thereof.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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Annex

I have the honour to refer to my earlier letters, in particular that of 11 June 1997 (S/1997/452, annex), in which I explained to you how the representative of the United States of America in the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait is deliberately and systematically delaying and obstructing the approval of contracts by raising contrived and unwarranted objections so as to place on hold or block contracts. I have also drawn your attention to the working methods of the Committee, which flout agreed procedures, clearly as a result of the influence of the United States representative, and disregard the time-frame (an initial period of 180 days) established under Security Council resolution 986 (1995) and the Memorandum of Understanding. Contracts placed on hold or blocked have thus accumulated, and the approval of contracts and the delivery of goods to the Iraqi people have been considerably delayed. You yourself, in paragraph 10 of your report to the Security Council (S/1997/419) indicate that, although the initial period of 180 days has elapsed, difficulties continue in the execution of contracts for the provision of foodstuffs, medicine and supplies for essential civilian needs. I, for my part, would add that this situation can be explained by United States intransigence. The following is a list, in clarification, indicating the status of contracts as at 9 July 1997:

Number of applications submitted to the Committee: 746

Number of applications submitted under the "no-objection" procedure: 713

Number of applications approved: 494

Number of applications blocked: 15

Number of applications on hold: 175

Since the adoption of Security Council resolution 1111 (1997) on 4 June 1997, and the renewal of the Memorandum of Understanding on that date, the processing of contracts for the provision of foodstuffs, medicine and other supplies during the initial period of 180 days is still subject to delay, not to say obstruction, despite the fact that the Iraq Account has sufficient funds to finance all the contracts submitted to the Committee secretariat. These difficulties relate not only to contracts for the supply of foodstuffs and medicine, but also, and especially, to contracts for supplies to the sectors covered by the purchase and distribution plan, namely electricity, water, sanitation, agriculture and education, sectors which were the object of systematic and relentless destruction. There follows a list by sector indicating the percentage of contracts on hold pending United States approval and the Committee's written authorization.

Foodstuffs: 14 per cent

Medicine: 29 per cent

Electricity: 56 per cent

Agriculture: 64 per cent

Water and sanitation: 3 per cent

Education: 19 per cent

As you can see, Sir, the effective implementation of the provisions relating to the second period constitutes a very dark picture. Moreover, as I have indicated on other occasions, in the initial period all the quantities of oil provided for by resolution 986 (1995) were exported prior to the end of the 180-day period in accordance with that resolution, the proceeds from the sale of oil were paid into the Iraq Account at the Banque nationale de Paris, in New York, and withdrawals for reimbursements to the Special Commission and all other withdrawals were made in full. That notwithstanding, the processing of contracts for humanitarian goods and supplies for essential civilian needs that should be delivered on an urgent basis to the Iraqi people is still being obstructed. This situation prompts us to ask whether we are dealing with an agreement on oil in exchange for foodstuffs, medicine and materials for essential needs, or with an agreement on oil in exchange for withdrawals and the payment of funds remaining in the escrow account.

We have reason to question the very basis of our work during the second period, in view of the role of the United States, which is deliberately delaying and obstructing the processing of contracts. In addition to lacking any legal or technical basis, the United States attitude is shameful and contemptible, since the country in question is using the United Nations for odious purposes. My above-mentioned letter to you described in detail the arguments for placing contracts on hold put forward by the United States representative, who sometimes claimed that the goods requested were not on the detailed list, whereas they were in fact on the list, and sometimes asserted that the United States wished to be certain that there were enough observers, even though the Department of Humanitarian Affairs had assured the United States more than once that over 139 observers were present in Baghdad. Even more seriously, the United States representative often does not even provide any justification for requesting that contracts be placed on hold. How long is this situation going to continue, Sir?

In paragraph 13 of resolution 986 (1995), the Security Council requests the Secretary-General to take the actions necessary to ensure the effective implementation of the resolution. However, now that the initial 180-day period has elapsed and over four weeks after the adoption of resolution 1111 (1997), the citizens of Iraq have still not received as much as one single whole package of provisions for even a single month and over 175 contracts are still on hold, while the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait continues to delay the adoption of measures to accelerate the handling of contracts.

It can legitimately be asked when the Secretary-General will ever be able to assume his role and eliminate these difficulties, if not now. In that connection, we would appreciate it if you would duly inform us whether there is any way in which you could intervene effectively to deal with the situation where the initial period is concerned. It is more than one month since the deadline passed, and Iraq has still not received all the humanitarian supplies

provided for, even though it has met its obligations with respect to the export of oil.

The course of events during the initial period obviously drained the Memorandum of Understanding and resolution 986 (1995) of their substance, namely, their humanitarian goals, and concealed their primary objectives. The results achieved during the initial period by no means matched the goal of resolution 986 (1995) and the Memorandum of Understanding. This is demonstrated by the fact that the citizens of Iraq have, to this day, not received any whole packages of provisions, even during a single month.

Is this situation going to continue during the second period? There is no question, Sir, that you have a decisive role to play in the implementation of resolution 986 (1995) and the Memorandum of Understanding. If this role is not assumed, that will mean that the party concerned will bear a considerable humanitarian and moral responsibility, particularly since it is a question of alleviating the suffering of millions of Iraqi citizens.

This situation cannot be allowed to continue, since it is clear that just one country is obstructing by all possible means the methodical implementation of the Memorandum of Understanding and resolution 986 (1995) clearly provides the Secretary-General with the necessary frame of reference. How long will this one country be permitted to act just as it pleases, placing obstacle after obstacle in the way of implementation of this resolution?

It is extremely odd that the country in question uses all political, technical and administrative devices, sometimes recommending one procedure, sometimes another for implementing the Memorandum of Understanding, while pushing some persons to insist that the Iraqi oil loadings should begin, in accordance with resolution 1111 (1997). This requirement is surprising, illogical and unjust. An equitable procedure for the implementation of that resolution, as during the initial period, and as you are yourself well aware, would be first of all to finalize the purchase and distribution plan to be approved by the Secretary-General, as during the initial period. Then all the parties concerned must take the necessary action to put an end to the manoeuvres designed to obstruct the processing of the contracts submitted under the initial purchase and distribution plan and expedite the processing of pending contracts.

We signed an agreement with the Secretary-General on the sale of oil in exchange for the purchase of foodstuffs, medicine and other humanitarian supplies for Iraq, not an agreement on the sale of oil for the purpose of reimbursements and other withdrawals from, and payments of funds into, the Iraq Account. The Iraqi Government can legitimately ask what the intentions are of those who, while insisting that Iraqi oil loadings begin, are not too concerned about lifting holds on contracts not yet processed under the initial period, which expired over a month ago. The Iraqi Government is also entitled to interpret this agreement in the light of reality and taking account of its provisions on its observance by all the parties concerned in terms of the achievement of its fundamental goal, namely, the purchase, financed by Iraq, of foodstuffs, medicine and materials for essential needs.

We hope that you will give this question due consideration and that you will take the necessary action to put an end to the obstructionism that prevailed during the initial period and that is continuing even now. United Nations action and initiatives must be in keeping with both the spirit and the letter of the Memorandum of Understanding, and also with the spirit of cooperation and seriousness shown by the Iraqi Government in connection with the implementation of the Memorandum.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs of the
Republic of Iraq

Baghdad, 12 July 1997

UNITED
NATIONS

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GENERAL ASSEMBLY
Fifty-first session
Agenda items 109 and 110

SECURITY COUNCIL
Fifty-second year

RIGHT OF PEOPLES TO SELF-DETERMINATION

HUMAN RIGHTS QUESTIONS

Letter dated 9 July 1997 from the Permanent Representative of Cambodia to the United Nations addressed to the Secretary-General

I have the honour to submit for your information the appeal of Prince Norodom Ranariddh, First Prime Minister of the Kingdom of Cambodia, to the international community, dated 8 July 1997.

I would be grateful if you would have the text of the present letter and its annex circulated as a document of the fifty-first session of the General Assembly, under agenda items 109 and 110, and of the Security Council.

(Signed) SISOWATH Sirirath
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

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ANNEX

Appeal of Prince Norodom Ranariddh, First Prime Minister of Cambodia, to the international community, issued on 8 July 1997

The recent event that took place last Saturday in my poor country of Cambodia saddened me deeply. As a Cambodian, I feel ashamed for the act committed by my colleague, Second Prime Minister Samdech Hun Sen. His love for absolute power over Cambodia and the suffering Cambodian people showed how thirsty he is to control and direct Cambodia illegally and unconstitutionally.

I, Norodom Ranariddh, who was elected by universal suffrage in democratic elections organized and supervised by the United Nations in 1993, won the elections. In the spirit of national reconciliation under the very high leadership of King Norodom Sihanouk, I agreed to share power with Samdech Hun Sen, the loser of the election.

The Royal Government of Cambodia was then formed, with two Prime Ministers sharing equal power. I agreed to put into practice this new system of two Heads of Government, hoping that slowly the people and the nation of Cambodia would be unified. But this did not work out. The Cambodian People's Party (CPP) under Samdech Hun Sen continued to deny me and the Funcinpec Party equal power in villages and communes and at the district level.

As time passed, the more and more aggressive nature of Samdech Hun Sen was shown in his open criticism without shame against me and the Funcinpec Party. The spirit of national reconciliation has been slowly deteriorating and breaking apart since March 1996. As a national leader, Samdech Hun Sen continued to attack me in an unprofessional manner. His words and actions do not befit a national leader.

1. I therefore appeal to all peace- and justice-loving nations of the world who have always supported Cambodia's right to liberty to intervene in Cambodia. This is a shameful act committed by my colleague and partner Samdech Hun Sen, Second Prime Minister. I call for the renewal of the discussion on national reconciliation, as proposed by King Norodom Sihanouk in his letter addressed to me and my partner as well as to Mr. Samdech Chea Sim, President of the National Assembly. My door is open for discussion with him at any time and any place, except Cambodia.

2. If all approaches towards negotiation fail, I appeal to the States Members of the United Nations not to recognize the new coup leaders in Cambodia. No coup d'état whatsoever could be condoned by any peace-loving nations.

3. I appeal to the international community to place economic sanctions on Cambodia.

4. I call on all Member States to continue to recognize the current Ambassadors and Consul Generals of the Kingdom of Cambodia, accredited all over the world, who were recommended by me and Samdech Hun Sen himself and approved by the Foreign Affairs Committee of the National Assembly of the Kingdom of Cambodia. All their credentials were signed by King Norodom Sihanouk. They

should not be removed by the coup leader. They are the true representatives of the Royal Government of Cambodia.

5. I call on the Association of South-East Asian Nations (ASEAN) to review the admission of Cambodia into its distinguished Association. Cambodia is no longer a democratic nation. The current coup leaders under Samdech Hun Sen are not democratically elected leaders of the Cambodian people, but oppressors of the suffering innocent Cambodian people. ASEAN should continue to put Cambodia on its agenda as was successfully done in the United Nations from 1979 to 1991, leading to the successful Paris International Conference on Cambodia, co-chaired by France and Indonesia.

6. No one can replace me as First Prime Minister of the Kingdom of Cambodia. If another individual is put into place, he or she will first have to have a vote of confidence in the National Assembly of Cambodia and secondly be introduced to the King in an official swearing-in ceremony in the Hall of the Throne of the Royal Palace at which all members of the new cabinet and members of Parliament must be present. If a new cabinet is set up, the First Prime Minister will be the real puppet of Samdech Hun Sen. The King is presently in Beijing for medical treatment and the Hall of the Throne of the Royal Palace of Cambodia cannot be dismantled and transported elsewhere on earth.

The National Assembly of Cambodia is no longer a credible body consisting of democratically elected law-makers, but rather a rubber-stamp people's congress of Samdech Hun Sen and the CPP. Funcinpec members of Parliament have fled or are in hiding somewhere in Cambodia. The lives of those who are overseas are safe, but those who have been detained and forced at gun-point will from now on have to answer to and support Samdech Hun Sen.

7. Cambodia's democracy has collapsed. Freedom of the press no longer exists, and those who dare to criticize Samdech Hun Sen will be physically silenced. It is now a military junta regime led by coup leader Samdech Hun Sen and his collaborators. It is not an internal affair of Cambodia, as claimed by Samdech Hun Sen, and he cannot deceive the international community by claiming that he represents, legally and legitimately, the Royal Government. He needs the Royal Government only for his own personal ambition.

8. The international community, through the United Nations, has invested so much time and energy, along with financial assistance and human resources, to put Cambodia back into a state of law as well as slowly to improve human rights conditions. It should continue to intervene in this critical situation and to put pressure on the coup leaders so that they will not be recognized and that no assistance whatsoever in any form will continue to flow freely into Cambodia.

9. I am deeply saddened by the loss of my friend and comrade-in-arms, Ho Sok, Secretary of State for the Interior, who was arrested, detained and shot to death by the coup leader without giving him a chance to answer before a court of law. I present my heartfelt condolences to his beloved family and friends. The memories of my beloved friend Ho Sok, a distinguished and loyal servant of the Cambodian people, will always be eternally cherished in my heart. The Cambodian Constitution abolished the death penalty on 23 September 1993, when the new Constitution of the Kingdom of Cambodia was promulgated by the King. This is a pure violation of human rights by Samdech Hun Sen.

10. Samdech Hun Sen and the CPP fear the democratic elections next year, which we both agreed should be held in May 1998 with the cooperation of the United Nations, which will coordinate international observers. Samdech Hun Sen presumably knew beforehand that he and the CPP would lose the elections, because there would be then only one Prime Minister according to the new Constitution of Cambodia after the general elections in 1998.

11. Cambodia now returns to the law of the jungle - commands and dictates only by Samdech Hun Sen. Cambodia is Hun Sen. Hun Sen is the law. Hun Sen is the court of justice and Hun Sen is the judge.

12. My partner, Samdech Hun Sen, has accused me of treason in my national reconciliation efforts to bring the Khmer Rouge to abide and respect the Constitution of the Kingdom of Cambodia and to pave the way for them to join all our beloved Cambodian compatriots in one big family. Samdech Hun Sen has quickly forgotten that he was a rough and tough Khmer Rouge commander himself, and Samdech Hun Sen committed tremendous crimes against humanity under the Pol Pot regime in the years from 1975 to 1979. If Pol Pot is to be put on trial by the International Court of Justice, Hun Sen will no doubt be pointed out by Pol Pot as his collaborator and commander of the Khmer Rouge. I agreed to welcome him as my partner and colleague and allow him to bear the title of Co-Prime Minister of the Royal Government of Cambodia when he lost the general elections in 1993. So he is a Khmer Rouge too and I had no fear of him whatsoever during my working days with him. I still have no fear of him now. But Hun Sen fears the forces of democracy of the Cambodian people.

13. Samdech Hun Sen negotiated directly with the infamous Khmer Rouge leader Ieng Sary, who is the brother-in-law of Pol Pot and former Khmer Rouge Foreign Minister, without my knowledge. He informed me only later when he wished to request amnesty from the King for Ieng Sary.

14. I call on all foreign investors to boycott Cambodia and not to throw their money needlessly into the personal coffer of Samdech Hun Sen.

15. More than 60 per cent of the Cambodian national budget depends yearly on the help of donor countries. I call on the International Conference on the Reconstruction of Cambodia and the Consultative Group Meeting to freeze all their assistance to Cambodia.

16. The International Monetary Fund and the World Bank, as well as the Asian Development Bank and endless international banking institutions around the world, should cease to lend money to the coup leaders of Cambodia. If they do so, this money will be used to suppress the frightened innocent people of Cambodia.

17. Their forces have looted the stores and shops of the poor Cambodian merchants. They are not, therefore, protectors of the safety and security of their own people, but rather thieves and robbers.

18. The coup leaders violated the Constitution of Cambodia and they should not be recognized as the legal representative of the Kingdom of Cambodia.

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LETTER DATED 7 JULY 1997 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I write to inform you of the proceedings and outcome of the twenty-fourth session of the Governing Council of the United Nations Compensation Commission, held at Geneva on 23 and 24 June 1997.

During its opening plenary meeting, the delegations of Kuwait, Iraq and Turkey addressed the Council.

The Governing Council discussed and approved the report and recommendations of the Panel of Commissioners concerning the fifth instalment of individual claims for damages up to US$ 100,000 (category C claims) (see annex I). This instalment covers more than 76,000 claims filed by 43 Governments and three international organizations, on behalf of individuals not in a position to file their claims through Governments (see annex II). With the approval of this instalment, the total number of category C claims resolved has reached 277,730, representing a total amount awarded of approximately $2.1 billion.

On the basis of a secretariat report (see annex III), and in accordance with article 41 of the Commission's provisional rules for claims procedure, the Governing Council decided to correct the amount of compensation for 10 departure claims (category A claims) filed by six countries (see annex IV).

The Governing Council also approved the nominations made on behalf of the Secretary-General for the appointment of six new commissioners. The commissioners will form two new panels responsible for the review of corporate claims (category E claims). One panel, with Mr. Allan Philip (Denmark) as chairman, and Mr. Bola A. Ajibola (Nigeria) and Mr. Antoine Antoun (Lebanon) as members, will be charged to review a number of petroleum sector claims. The other, with Mr. Robert Briner (Switzerland) as chairman, and Mr. Alan James Cleary (United Kingdom of Great Britain and Northern Ireland) and Mr. Lim Tian Huat (Malaysia) as members, will be charged to review a number of Kuwaiti private sector claims.

With respect to the composition of future panels of commissioners, members of the Governing Council emphasized the need for broader geographical and legal representation. The Governing Council requested that the secretariat prepare a

paper on the criteria for the selection of commissioners. This paper will be discussed at an informal meeting of the Governing Council.

Finally, the Governing Council considered the report of the Executive Secretary (S/AC.26/1997/R.6) on the work of the Commission. Member States favoured accelerating the processing of the remaining claims in categories D, E and F, as recommended in that report. The Council therefore requested the secretariat to submit proposals on the ways in which that objective could be achieved.

I should also like to inform you that the Governing Council will hold its twenty-fifth session from 29 September to 1 October 1997. The twenty-sixth session is tentatively scheduled for 15 to 17 December 1997.

(Signed) Gonçalo DE SANTA CLARA GOMES
President of the Governing Council
United Nations Compensation Commission

Annex I

Report and recommendations made by the Panel of Commissioners Concerning the Fifth Instalment of Individual Claims for Damages up to US$ 100,000 (category "C" claims)*

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* Previously issued as S/AC.26/1997/1.

INTRODUCTION

1. This report contains the recommendations to the Governing Council of the United Nations Compensation Commission (the "Commission") by the Panel of Commissioners (the "Panel") appointed to review individual claims for damages up to US$100,000 ("category 'C' claims"), pursuant to article 37(e) of the Provisional Rules for Claims Procedure [1] (the "Rules"). These recommendations concern the fifth instalment comprising 76,751 category "C" claims submitted to the Panel by the Executive Secretary of the Commission, pursuant to article 32 of the Rules.

2. The Panel has reviewed the fifth instalment of category "C" claims in a continuum with the Panel's processing of the first four instalments of category "C" claims. This report should therefore be considered in conjunction with the "Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of Individual Claims for Damages up to US$100,000 (Category 'C' Claims)" and its annexes [2] (the "First Report"), the Report and Recommendations Made by the Panel of Commissioners Concerning the Second Instalment of Individual Claims for Damages up to US$100,000 (Category 'C' Claims)" and its addendum [3] (the "Second Report"), the "Report and Recommendations Made by the Panel of Commissioners Concerning the Third Instalment of Individual Claims for Damages up to US$100,000 (Category 'C' Claims) [4] (the "Third Report"), and the "Report and Recommendations Made by the Panel of Commissioners Concerning the Fourth Instalment of Individual Claims for Damages up to US$100,000 (Category 'C' Claims)" [5] (the "Fourth Report") which have been approved by the Governing Council. [6] The fifth instalment has been processed on the basis of the considerations, precedents and determinations expressed in the First through Fourth Reports, which the present report incorporates by reference.

3. This report reflects the work performed by the Panel since it issued its recommendations on the fourth instalment of category "C" claims. The Panel met with the Commission's secretariat at the secretariat's headquarters in Geneva on 12-13 February, 10 April and

15 May 1997. The Panel acknowledges the efficient work performed by the secretariat in connection with the Panel's review of the fifth instalment.

I. PROCESSING APPROACH AND SCOPE OF WORK

4. In its review of claims and in making its recommendations, the Panel has applied relevant Security Council resolutions, Governing Council Decisions, the Rules, and other relevant principles and practices of international law. In addition to the information presented in the claims, the Panel has also taken into account the following: information accompanying the submission of the fifth instalment of claims provided by the Executive Secretary pursuant to article 32 of the Rules; additional information and views presented by Governments and international organizations, and by the Government of Iraq, in response to the reports presented to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules; and relevant United Nations and other reports.

5. In terms of defining the Panel's mandate, the Governing Council's Decision 1 has particular relevance. [7] In this Decision the Governing Council determined that category "C" claims, together with claims in categories "A" and "B", were considered to be "urgent" claims. Accordingly, Decision 1 provides for the processing of these categories of claims "on an expedited basis" using procedures "such as checking individual claims on a sample basis, with further verification only if circumstances warranted." [8] Consistent with this Decision, article 35 of the Rules states that documents and other evidence will be the reasonable minimum appropriate under the circumstances, with a more flexible evidentiary standard applying to claims for smaller amounts.

6. The First and Second Reports provide an extensive discussion of the considerations and preparations underlying the processing methodologies applied to the category "C" claims. [9] In view of the Panel's mandate, and in keeping with the "fast-track" processing

approach applied to the second, third and fourth instalments of claims, the application of statistical sampling and modelling techniques continues to form the basis for the fifth instalment of category "C" claims. [10] The Panel notes that, as explained in the Second through Fourth Reports, claims not meeting the fast-track processing criteria also require expedited processing and will be included in future instalments. However, given the large number of claims received in category "C", the Panel has determined that those claims that can be processed efficiently through fast-track processing methodologies will be addressed first.

II. PROCESSING METHODOLOGIES AND RESULTS

7. The completion of the data entry of claims information for approximately 165,000 category "C" claims from submitting governments and international organizations, as described in the Second Report, [11] has made additional claims available for processing by means of the fast-track processing methodologies. Thus, claims presenting losses that lend themselves to processing by the fast-track approach have been included in the fifth instalment. [12]

8. In addition to identifying claims meeting the fast-track processing criteria described in the First and Second Reports, the Panel has developed and finalized additional fast-track processing methodologies during its working sessions through May 1997, and has applied these methodologies to the fifth instalment of category "C" claims as described below.

A. Statistical sampling methodologies

9. The First Report describes the Panel's use of sampling in the context of the first instalment of category "C" claims. [13] The Second Report describes the Panel's use of sampling to resolve certain losses claimed on the "C1" page of the claim form for mental pain and anguish ("C1-MPA" claims). [14]

1. Additional C1-MPA claims

10. In its selection of additional fast-track categories of losses claimed for mental pain and anguish on the "C1" page of the claim form ("C1-MPA" claims), the Panel utilized the same considerations as it had for selecting claims for the second instalment. [15] Thus, Kuwaiti nationals claiming for mental pain and anguish for hostage-taking or illegal detention for more than three days comprised a large homogeneous group of claimants who were expected to share evidentiary and other relevant characteristics. The Panel determined, on the basis of the sample claims reviewed, [16] that Kuwaiti nationals claiming for C1-MPA for hostage-taking or illegal detention for more than three days had satisfied the applicable C1-MPA criteria established in the First Report. [17] It also confirmed that the number of days stated on the claim form was reliable for purposes of determining the recommended amounts. [18]

11. Based on the sampling results, [19] which confirm the Panel's findings with respect to C1-MPA claims in the first and second instalments, the Panel concludes that those Kuwaiti nationals with claims for hostage taking or illegal detention for more than three days should be compensated for their C1-MPA losses. The Panel further finds that such compensation is to be based on the number of days stated on the claim form, to be calculated by application of the formulas set out by Decision 8 of the Governing Council. [20]

2. Additional C4-MV claims

12. The Panel considered results from a motor vehicle sampling project that also fulfilled the sampling considerations specified for C1-MPA claims to select additional fast-track losses. [21] The criteria and methodology for losses claimed on the "C4" page of the claim form for "total loss" or "stolen" motor vehicles ("C4-MV") were established by the Panel in the First and Second Reports, [22] including the use of the applicable value from the Motor Vehicle Valuation Table ("MVV Table"). [23] In the case of Kuwaiti nationals, all claims were submitted in both electronic and paper format. The

Government of Kuwait entered the value of the vehicle from the MVV Table directly into the electronic format as the amount of loss claimed. The sampling exercise was undertaken to confirm whether the amounts claimed indeed conformed to the MVV Table amounts.

13. In 100 per cent of the claims included in the sampling project, the Panel's criteria for proof of ownership, proof of loss and causal relationship to the invasion were met. [24] The Panel further determined that, based on the sample results, the amount of loss claimed on the electronic claim by Kuwaiti nationals was the equivalent of the MVV Table value for the claimed vehicle. [25] Thus, the Panel determined for such claims that the recommended amount of compensation should be the lower of the amount of loss claimed for the motor vehicle on the "C4" page of the claim form or the original cost of the vehicle as stated on the "C4" page of the claim form. [26]

B. Statistical modelling methodologies

14. As in the Second Report, the considerations that led the Panel to adopt supplementary methods of assessing the value of claimants' losses remain valid. For certain loss types, the claims by themselves do not provide a sufficiently clear or consistent valuation basis and the vast numbers, immense diversity and "expedited" nature of category "C" claims do not permit an individualized approach. [27] Statistical tools such as regression analysis provide a level of objectivity and consistency while taking into account individual characteristics relevant to the determination of compensation awards. [28]

1. Additional C6-salary claims

15. The First and Second Reports detail the Panel's valuation methodology for claims for wage and salary losses on the "C6" page of the claim form ("C6-Salary" claims). [29] Application of the methodology is based on the identification of the claimant's pre-invasion monthly salary. Of the approximately 92,500 category "C" claims submitted by the Government of Egypt in electronic format,

along with the paper counterparts, approximately 16,000 claims contained C6-Salary losses but provided no pre-invasion monthly salary in the electronic claim. For the fifth instalment, after conducting a thorough individual review of the evidentiary support in a random sample of the paper claims, the Panel approved the use of a statistical regression model to supply the pre-invasion monthly salary for such claims. [30] The Panel further determined that such claims having high monthly salaries, or high or low C6-Salary total amounts claimed, should be individually reviewed for data error.

2. Outlier review: C1-money and C4-CPHO claims

16. Outliers are those claims that do not resemble similarly-situated claims. Outliers have been excluded from the modelling data-sets [31] for transportation, food, lodging, relocation and other related losses claimed on the "C1" page ("C1-Money" claims) and losses for clothing, personal effects, household furnishings and other personal-property-related losses claimed on the "C4" page ("C4-CPHO" losses). Outliers have also been individually reviewed for data error. Further, in claims where compensation amounts ascertained by application of the C1-Money and C4-CPHO statistical regression models in the second, third and fourth instalments were less than 35 percent of the amounts claimed for, those losses were also reviewed individually for data errors. [32] Where found, data errors were corrected. To the extent that such claims do not otherwise present any special problems, they have now been included in the fifth instalment.

III. CLAIMS INCLUDED IN THE FIFTH INSTALMENT

17. As in the second, third and fourth instalments, the category "C" claims included in the fifth instalment represent the losses most frequently suffered by category "C" claimants. They include C1-Money claims; C4-CPHO claims; [33] C4-MV claims; [34] losses claimed on the "C5" page related to bank accounts located in Kuwait; [35] and C6-Salary claims. [36] Also included in this instalment are C1-MPA losses claimed by Kuwaiti or OECD nationals related to forced

hiding, hostage taking or illegal detention for more than three days[37] and claims submitted by the Government of Egypt on the "C6" page for mental pain and anguish related to the deprivation of all economic resources ("C6-MPA" claims). [38]

18. During the processing of the fifth, as in respect of previous instalments, the secretariat applied a special computer program to perform cross-checks on combinations of available identifying information in order to exclude as much as possible cross-category multiple recovery between category "A" (departure) claims and claims for departure losses submitted on the "C1" page of the category "C" claim form. As with the fourth instalment, in accordance with the Governing Council's decision on adjustment of compensation for multi-category departure claims, [39] after confirming that claimants who filed individual or family claims for departure losses in category "A" had also filed claims for departure losses in category "C", the secretariat has reduced the "C1-Money" departure claims pursuant to Decision 24 of the Governing Council. [40] This fifth instalment reports the adjusted recommended award amounts for such claims.

IV. RECOMMENDATIONS

19. The Panel hereby presents the amounts recommended as compensation for 76,720 claims in the fifth instalment of category "C" claims. Totalling US$720,924,558.14, these recommended compensation amounts are listed in the summary table below for each Government and international organization included in the fifth instalment. Each Government and international organization will be provided with a confidential listing containing the individual recommendations made in respect of its claimants. The amounts recommended for compensation in the fifth instalment resolve all of the loss elements presented in these claims. Thirty-one claims in the fifth instalment of category "C" claims are not recommended for payment. The claims not recommended for payment relate exclusively to the following: C1-Money losses where recommended amounts are equal to or lower than the amounts previously approved by the

Governing Council for the same claimants in category "A"; [41] C5 bank account losses in Kuwait; and C6-MPA losses for Egypt. [42]

Summary of Fifth Instalment Recommendations			
Country	Number of Claims Recommended for Payment	Number of Claims Not Recommended for Payment	Amount of Compensation Recommended (US$)
Algeria	2	--	27,036.50
Australia	4	--	114,460.74
Austria	1	--	20,789.17
Bahrain	4	--	75,675.21
Bangladesh	1,441	1	9,772,278.32
Cameroon	1	--	1,714.98
Canada	39	--	974,360.88
Chad	1	--	4,616.79
Croatia	2	--	36,847.76
Czech Republic	6	--	134,365.26
Egypt	13,274	--	85,050,545.00
Federal Republic of Yugoslavia (Serbia and Montenegro)	1	--	840.07
France	6	--	173,929.82
Germany	7	--	168,194.58
Greece	2	--	67,924.84
Hungary	3	--	60,841.05
India	9,753	3	65,200,543.03
Iran	23	--	468,658.75
Ireland	4	--	84,478.70
Italy	3	--	85,401.04
Japan	1	--	15,904.82
Jordan	9,988	18	92,708,375.12
Korea, Republic of	6	--	123,601.31
Kuwait	25,487	--	324,811,289.59
Lebanon	65	--	2,266,094.07

Summary of Fifth Instalment Recommendations			
Mauritius	2	--	33,607.27
Morocco	5	--	59,554.30
Netherlands	3	--	57,180.05
New Zealand	1	--	39,669.72
Pakistan	668	--	7,577,923.64
Philippines	2,093	4	7,733,835.78
Poland	3	--	31,433.14
Somalia	6	--	112,873.60
Sri Lanka	1,525	4	2,220,398.86
Sudan	1,984	--	15,548,269.29
Sweden	2	--	34,874.88
Syria	10,062	1	99,451,240.61
Thailand	4	--	60,134.54
Tunisia	16	--	204,829.96
Turkey	10	--	223,531.45
United Kingdom	91	--	2,169,078.28
United States of America	73	--	2,018,256.74
Yemen	33	--	562,016.48
UNDP Jerusalem	3	--	82,928.25
UNDP Washington	6	--	148,196.89
UNHCR Canada	2	--	52,787.08
UNHCR Geneva	2	--	27,176.47
UNRWA Vienna	2	--	25,993.46
Total	76,720	31	720,924,558.14

20. In accordance with procedures set out in article 41 of the Rules for the correction of award amounts previously reported in an instalment and approved by the Governing Council, [43] the Panel, on the initiative of the Executive Secretary, recommends approval of corrected recommended amounts for the following claims.

21. The Panel recommends approval of corrected recommended amounts for three claims from the first instalment. [44] A confidential listing

containing a revised breakdown of amounts in respect of individual claimants will be provided to the countries affected. The concurrent recommended changes per country are listed below:

FIRST INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
United Kingdom	5,322,359	5,310,759
Pakistan	17,787,653	17,763,696

22. Further, the Panel recommends approval of corrected recommended amounts for three claims from the second instalment. [45] Also in the Second Report, 50 claims were inadvertently attributed to an entity that did not submit them to the Commission. [46] A confidential listing containing a revised breakdown of amounts in respect of individual claimants will be provided to all Governments and submitting entities affected. The concurrent recommended changes per country are listed below:

SECOND INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Canada	3,879,863.25	3,858,309.58
Lebanon	26,143,122.53	26,123,043.04
UNDP Jerusalem	1,361,377.06	620,982.03
UNRWA Vienna	0	740,395.05

23. The Panel is satisfied that the secretariat has used reasonable and practical means to detect the existence of duplicate claims. [47] However, given the difficulty for the secretariat to identify each potential case of multiple recovery, the Panel recommends that similar checking procedures be implemented by all Governments and international organizations receiving lists of individual claimants in order to prevent instances of overpayment to their claimants.

24. With reference to the considerations on the subject of interest expressed in the First Report, [48] the Panel recommends that interest be awarded on the claims included in this fifth instalment of category "C" claims as of 2 August 1990. [49]

25. These findings are without prejudice to the conclusions and findings of panels for other categories of claims. The Panel adopted this report, including the recommendations to the Governing Council, by unanimity.

Geneva, 15 May 1997

(Signed) Mr. L. Yves Fortier, Q.C.
Chairman

(Signed) Mr. Sergei N. Lebedev
Commissioner

(Signed) Mr. Philip K. A. Amoah
Commissioner

Notes

1/ S/AC.26/1992/10.

2/ S/AC.26/1994/3.

3/ S/AC.26/1996/1 and S/AC.26/1996/1/Add.1/Rev.1.

4/ S/AC.26/1996/2.

5/ S/AC.26/1996/4.

6/ S/AC.26/Dec.25 (1994), S/AC.26/Dec.36 (1996), S/AC.26/Dec.37 (1996) and S/AC.26/Dec.39 (1996).

7/ S/AC.26/1991/1.

8/ Idem.

9/ See First Report, pp. 49-208 and Second Report, paras. 24-51.

10/ The "fast-track" processing approach is described in detail in the Second Report. See, in particular, paragraphs 8 through 14.

11/ See Second Report, para. 18.

12/ As previously stated, there are many difficulties inherent in processing category "C" claims that derive from the condition, presentation and quality of the claims provided. See Second Report, paras. 19-23.

13/ See First Report, pp. 39-47. For a more detailed description of relevant precedents and sampling techniques, see "Report and Recommendations Made by the Panel of Commissioners Concerning the Fourth Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)", S/AC.26/1995/4 (the "Fourth Category 'A' Report"). More than 500,000 category "A" claims were processed on the basis of sampling.

14/ See Second Report, paras. 25-32. These losses included claims by Kuwaiti nationals for forced hiding and claims by nationals of member countries of the Organization for Economic Cooperation and Development (OECD) for forced hiding, hostage taking or illegal detention for more than three days.

15/ See Second Report, para. 30, for considerations leading to the Panel's selection of C1-MPA claims.

16/ More than 99 percent of claimants were able either to provide information from their government confirming that they were held hostage or illegally detained or to establish specific circumstances or events relevant to their detention or hostage-taking so as to ascertain the location where they were taken hostage or illegally detained, the date of their capture or arrest, the specific identity of their captors or the date they were released from captivity

17/ The Panel's processing considerations for C1-MPA claims and the substantive criteria applied to verify and compensate such claims are set forth in the First Report, pp. 82-96. As a threshold requirement relevant to all category "C" loss types, the Panel verified in the first instalment whether claimants were resident in Iraq or Kuwait at the time of the invasion. First Report, pp. 52-53 and 90. In the current sampling population, as in previous C1-MPA sampling projects approved by the Panel, over 99 percent of claimants provided evidence to support the fact of their residence in Iraq or Kuwait.

18/ In general, claimants in the sample slightly understated the number of days supported by the evidence attached to their claim forms.

19/ See supra at note 18.

20/ S/AC.26/1992/8.

21/ See supra at para. 10 and Second Report, para. 30. While the cited sections refer specifically to the selection of candidates for C1-MPA sampling projects, the considerations are generally applicable to the selection of candidates for any sampling.

22/ For considerations and criteria applicable to C4-MV claimants in general, see First Report, pp. 148-158. For criteria specifically applicable to non-Kuwaiti C4-MV claimants, see Second Report, paras. 40-41.

23/ The MVV Table provides standard market values indexed by make, model and year, for motor vehicles in Kuwait for the years 1980 to 1990. After carefully reviewing the MVV Table and its preparation and considering alternative sources of automobile valuation information, the Panel adopted the MVV Table as the basis for a comparison of the amounts claimed with the value indicated for the underlying vehicle. First Report, pp. 156-157.

24/ For elaboration of all relevant criteria, see First Report, pp. 59-81, 148-158.

25/ In the sample, the amount claimed was generally slightly less than the MVV Table value for the underlying vehicle.

26/ See also Second Report, para. 41.

27/ See First Report, p. 143; Second Report, paras. 20-21.

28/ See Second Report, paras. 34-38.

29/ This methodology takes into account a number of factors, including relevant Iraqi and Kuwaiti legislation, an expert study of entitlements payable upon termination of employment, the number and characteristics of the claims included in the first instalment, the number of claims expected in other instalments, and the evidence submitted in support of the claims. First Report, pp. 168-194. In the Second Report, the compensation cap was modified to the lesser of the amount claimed or the application of a multiplier of seven to a claimant's pre-invasion monthly salary. Second Report, paras. 44-51.

30/ Analysis of the random sample determined that in more than 96 percent of the cases, the prior monthly salary was either clearly stated on the claim form or found in the attachments provided by the claimant. The modelling data set included only claims that had been individually reviewed

with verified pre-invasion salary figures. The model included several variables: gender, marital status, year of birth, place of departure, amount claimed for C6-Salary, amount claimed for C4-CPHO, number of motor vehicles, and fact of claiming for household effects. The model was checked by comparing results to actual salaries in the sample. In nearly all cases, the results generated by the model approximated the verified pre-invasion salaries that were not included in the electronic format.

31/ Outliers are excluded from modeling data-sets pursuant to standard statistical practice. Retherford, Robert D. and Minja Kim Choe, Statistical Models for Causal Analysis , (John Wiley and Sons, Inc. 1993), pp. 20-21. See also "Technical Description of Statistical Modeling," Annex I, para. 8, Addendum (S/AC.26/1993/R.3/Add.1/Rev.1), Second Report.

32/ This review included more than 6,400 non-Kuwaiti and non-Egyptian claims. Kuwaiti and Egyptian claims, where the total compensation amounts arrived at by application of the models were less than 35 percent of the total amounts claimed for C1-Money and C4-CPHO losses, will be reviewed at a later phase and are therefore not included in the fifth instalment.

33/ See the discussion in the Second Report on the statistical modeling methodologies used in resolving C1-Money and C4-CPHO claims, at paras. 33-39.

34/ See the discussion in the Second Report on the C4-MV methodology, at paras. 40-41.

35/ See the discussion of "C5" bank accounts located in Kuwait in the Second Report, at paras. 42-43.

36/ See the discussion of the C6-Salary methodology in the First Report at pp. 168-194 and the Panel's review and analysis in the Second Report, at paras. 44-51.

37/ See discussion of C1-MPA claims in the First Report, particularly with respect to the categories of persons considered to have been forced to hide on account of a "manifestly well-founded fear" for their lives or of being taken hostage or illegally detained, pp. 92-96 and Second Report, paras. 25-32.

38/ See Second Report, note 48.

39/ S/AC.26/Dec.24 (1994). See also S/AC.26/Dec.21 (1994) and S/AC.26/Dec.17 (1994).

40/ Pursuant to Governing Council decision 24 [S/AC.26/Dec.24 (1994)], any claimant who has filed an individual claim in category "A" and has also filed a claim for departure losses in category "C" may be compensated in category "C" only insofar as the amount of such losses is determined to exceed US$2,500. Any claimant who has filed a family claim in category "A" and has also filed a claim for departure losses in category "C" may be compensated only insofar as the amount of such losses is determined to exceed US$5,000.

41/ As a result of the application of Governing Council decision 24 [S/AC.26/Dec.24 (1994)] to these claims, the amount calculated under category "C" has been entirely offset by the category "A" awards and, therefore, no amount of compensation is recommended for these category "C" claims.

42/ In connection with the rejection of these claims, the Panel notes in particular that the claimants' asserted deprivation of all economic resources should be clearly observable from the claim form and the attached documents. See First Report, p. 194, Second Report, note 48, Third Report, note 15, and Fourth Report, note 25.

43/ See discussion supra at para. 13.

44/ In December 1996, the Governing Council accepted the Panel's recommendation that corrections be made to seven claims from the first instalment. S/AC.26/Dec. 39 (1996) and Fourth Report, para. 12.

45/ In December 1996, the Governing Council accepted the Panel's recommendation that pursuant to Decision 24, in the case of 42 confirmed matches of category "A" claims and category "C1" departure claims from the second instalment, appropriate deductions be made from the compensation awarded to the category "C" claimants. Ibid., at para. 13.

46/ Until November 1996, all claims submitted by UNRWA Vienna were listed under the same country code as UNDP Jerusalem (UNDP/UNRWA). Thus, fifty claims from UNRWA Vienna were attributed in the second instalment to UNDP Jerusalem.

47/ Indeed, some corrections noted in paragraphs 21 and 22 supra were required because of the subsequent discovery of duplicates.

48/ First Report, pp. 32-33.

49/ See also S/AC.26/1992/16.

Annex II

Decision concerning the Fifth Instalment of Individual Claims for Damages up to US$ 100,00 (Category "C" Claims taken by the Governing Council of the United Nations Compensation Commission at its 69th meeting, held on 24 June 1997 at Geneva*

The Governing Council,

Having received, in accordance with article 37 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10), the fifth report of the Panel of Commissioners appointed to review individual claims for damages up to US$100,000 (category "C" claims), covering 76,751 individual claims,[1]/

1. Approves the recommendations made by the Panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the 76,720 claims covered in the report. The aggregate amounts per country or international organization, as listed in paragraph 19 of the report, are as follows:

Summary of Fifth Instalment Recommendations			
Country	Number of Claims Recommended for Payment	Number of Claims Not Recommended for Payment	Amount of Compensation Recommended (US$)
Algeria	2	--	27,036.50
Australia	4	--	114,460.74

[1]/ The text of the report is attached hereto (document S/AC.26/1997/1). In conformity with the provisions on confidentiality in the Provisional Rules for Claims Procedure (articles 30, paragraph 1, and 40, paragraph 5), a table containing the breakdown of the amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

* Previously issued as S/AC.26/Dec.41 (1997).

Country	Number of Claims Recommended for Payment	Number of Claims Not Recommended for Payment	Amount of Compensation Recommended (US$)
Austria	1	--	20,789.17
Bahrain	4	--	75,675.21
Bangladesh	1,441	1	9,772,278.32
Cameroon	1	--	1,714.98
Canada	39	--	974,360.88
Chad	1	--	4,616.79
Croatia	2	--	36,847.76
Czech Republic	6	--	134,365.26
Egypt	13,274	--	85,050,545.00
Federal Republic of Yugoslavia (Serbia and Montenegro)	1	--	840.07
France	6	--	173,929.82
Germany	7	--	168,194.58
Greece	2	--	67,924.84
Hungary	3	--	60,841.05
India	9,753	3	65,200,543.03
Iran	23	--	468,658.75
Ireland	4	--	84,478.70
Italy	3	--	85,401.04
Japan	1	--	15,904.82
Jordan	9,988	18	92,708,375.12
Korea, Republic of	6	--	123,601.31
Kuwait	25,487	--	324,811,289.59
Lebanon	65	--	2,266,094.07
Mauritius	2	--	33,607.27
Morocco	5	--	59,554.30
Netherlands	3	--	57,180.05
New Zealand	1	--	39,669.72
Pakistan	668	--	7,577,923.64
Philippines	2,093	4	7,733,835.78
Poland	3	--	31,433.14
Somalia	6	--	112,873.60

Country	Number of Claims Recommended for Payment	Number of Claims Not Recommended for Payment	Amount of Compensation Recommended (US$)
Sri Lanka	1,525	4	2,220,398.86
Sudan	1,984	--	15,548,269.29
Sweden	2	--	34,874.88
Syria	10,062	1	99,451,240.61
Thailand	4	--	60,134.54
Tunisia	16	--	204,829.96
Turkey	10	--	223,531.45
United Kingdom	91	--	2,169,078.28
United States of America	73	--	2,018,256.74
Yemen	33	--	562,016.48
UNDP Jerusalem	3	--	82,928.25
UNDP Washington	6	--	148,196.89
UNHCR Canada	2	--	52,787.08
UNHCR Geneva	2	--	27,176.47
UNRWA Vienna	2	--	25,993.46
Total	76,720	31	720,924,558.14

3. Decides, pursuant to article 41 of the Rules, to approve the amounts of the corrected awards for three claims from the first instalment and fifty-three claims from the second instalment.[2/] The aggregate amounts of the corrected awards per country as listed in paragraphs 21 and 22 of the report, are as follows:

FIRST INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
United Kingdom	5,322,359	5,310,759
Pakistan	17,787,653	17,763,696

[2/] In conformity with the provisions on confidentiality in the Provisional Rules for Claims Procedure (articles 30, paragraph 1, and 40, paragraph 5), a table containing the breakdown of the corrected amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

Second instalment corrections

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Canada	3,879,863.25	3,858,309.58
Lebanon	26,143,122.53	26,123,043.04
UNDP Jerusalem	1,361,377.06	620,982.03
UNRWA Vienna	0	740,395.05

4. Reaffirms that when funds become available payments shall be made in accordance with decision 17 [S/AC.26/Dec.17 (1994)],

5. Recalls that, when payments are made in accordance with decision 17 and pursuant to the terms of decision 18 [S/AC.26/Dec.18 (1994)], Governments and appropriate authorities concerned shall distribute amounts received in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

6. Decides that no compensation be awarded concerning the 31 claims referred to in paragraph 19 of the report.

7. Requests the Executive Secretary to provide copies of the report to the Secretary-General and copies of the report as well as the tables containing the breakdown of the amounts to be paid to each individual claimant to each respective Government and international organization.

Annex III

First report of the Executive Secretary Pursuant to Article 41 of the Provisional Rules for Claims Procedure

(Category "A" Claims)

1. Article 41 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) ("the Rules"), provides the following:

1) Computational, clerical, typographical or other errors brought to the attention of the Executive Secretary within 60 days from the publication of the decisions and reports, will be reported by the Executive Secretary to the Governing Council.

2) The Governing Council will decide whether any action is necessary. If it is determined that a correction must be made, the Governing Council will direct the Executive Secretary as to the proper method of correction.

2. In the past, recommended corrections to approved claim awards were reported to the Governing Council by the Commissioner Panels in their subsequent reports and recommendations. However, the Panel for category "A" claims has concluded its review of all of the claims in that category and is no longer functioning. Therefore, the Executive Secretary is reporting requests for corrections to category "A" claims directly to the Governing Council.

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* Previously issued as S/AC.26/1997/2.

3. The Executive Secretary recommends the correction of the previously approved category "A" claim amounts for the following countries:

a. Bangladesh

One family claim in the sixth instalment was incorrectly awarded the amount of US$4,000. The recommended revised award amount for this claim is US$8,000.

b. Jordan

Two claims reported in the second instalment were found to be duplicates of claims also reported in the same instalment. It is recommended that no compensation be awarded for the two duplicate claims.

c. Kuwait

One family claim in the sixth instalment was incorrectly awarded the amount of US$5,000. The recommended revised award amount for this claim is US$8,000.

d. Sudan

One claim originally reported in the fourth instalment was found to be a duplicate of a claim also reported in the same instalment. Pursuant to the conclusions reached by the Governing Council on 21 January 1997, both of these claims were moved to the second instalment for the purpose of payment. It is recommended that no compensation be awarded for the duplicate claim.

e. Sweden

One claim in the sixth instalment was erroneously reported as not eligible for compensation. The recommended revised award amount for this claim is US$2,500.

f. United Kingdom

- One family claim in the sixth instalment was erroneously awarded US$4,000. The recommended revised award amount is US$5,000.
- One claim in the sixth instalment was found to be a duplicate of a claim awarded compensation in the fifth instalment. It is recommended that no compensation be awarded for the duplicate claim in the sixth instalment.
- One claim in the sixth instalment was erroneously reported as not eligible for compensation. The recommended revised award amount for this claim is US$2,500.

- One family claim in the sixth instalment was erroneously awarded US$2,500. The revised recommended award amount is US$5,000.

4. The Executive Secretary's recommended corrections per country are listed below:

SECOND INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Jordan	96,437,000.00	96,425,000.00
Sudan	14,468,500.00 [1]	14,464,500.00

SIXTH INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bangladesh	66,178,000.00	66,182,000.00
Kuwait	17,170,000.00	17,173,000.00
Sweden	-	2,500.00
United Kingdom	348,500.00	349,500.00

[1] This amount includes claims moved forward by the Governing Council from the fourth instalment to the second instalment for purposes of payment.

Annex IV

Decision Concerning the Correction of Awards for Category "A" Claims Pursuant to Article 41 of the Provisional Rules for Claims Procedure taken by the Governing Council of the United Nations Compensation Commission at its 69th meeting, held on 24 June 1997 at Geneva*

The Governing Council,

Having received, in accordance with article 41 of the Provisional Rules For Claims Procedure (S/AC.26/1992/10) ("the Rules"), a report by the Executive Secretary covering ten claims in category "A",[1]

1. Decides, pursuant to article 41 of the Rules, to correct the amounts of the approved awards for three claims from the second instalment and seven claims from the sixth instalment.[2] The aggregate amounts of the corrected amounts per country, by claim instalment, are as follows:

SECOND INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Jordan	96,437,000.00	96,425,000.00
Sudan	14,468,500.00[3]	14,464,500.00

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[1] The text of the report is attached hereto (document S/AC.26/1997/2).

[2] In conformity with the provisions on confidentiality in the Provisional Rules For Claims Procedure (articles 30, paragraph 1, and 40, paragraph 5), a table containing the breakdown of the corrected amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government separately.

[3] This amount includes claims moved forward by the Governing Council from the fourth instalment to the second instalment for purposes of payment.

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* Previously issued as S/AC.26/Dec.42 (1997).

SIXTH INSTALMENT CORRECTIONS

Country	Previous Recommended Award (US$)	Corrected Recommended Award (US$)
Bangladesh	66,178,000.00	66,182,000.00
Kuwait	17,170,000.00	17,173,000.00
Sweden	-	2,500.00
United Kingdom	348,500.00	349,500.00

2. Directs the Executive Secretary to effect the above corrections and to provide copies of the tables containing the breakdown of the amounts to be paid to the affected individual claimants to each respective Government.

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REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN BURUNDI

I. INTRODUCTION

1. On 30 May 1997, in a presidential statement on Burundi (S/PRST/1997/32), the Council requested me to continue to keep it informed on the situation in Burundi, especially with regard to the steps being taken to encourage a negotiated and peaceful settlement of the ongoing conflict in that country.

2. The present report covers the main developments that have occurred since the previous report to the Council on 2 November 1996 (S/1996/887/Add.1). It will be recalled that, since the adoption of resolution 1072 (1996) of 30 August 1996, the Council has continued to receive regular briefings on the situation in Burundi.

II. POLITICAL SITUATION

3. During the period under review, the political situation in Burundi continued to reflect the deep divisions within and between the country's leading political movements, the polarizing influence of militant extremist groups at both ends of the political spectrum, the adverse effects on the security situation of events in former Zaire, Burundi's efforts to end international isolation brought about by the sanctions, and the lack of an agreed mechanism for negotiations acceptable to all the principal actors. For its part, the Government of President Pierre Buyoya continued efforts to consolidate power, to secure the lifting of economic sanctions and to encourage political dialogue, while stepping up efforts to combat the growing Hutu insurgency and the mounting death toll.

4. Divisions within the two main political parties, their rivalry and the constraints imposed on their work by the Government, have continued to feed animosities. The Front pour la démocratie au Burundi (FRODEBU), led in Burundi by its Secretary-General Augustin Nzojiewami and in exile by its Chairman Jean Minani as well as the Conseil national de défense de la démocratie (CNDD) leader Leonard Nyangoma, seems unable to overcome its internal divisions. The

same is true of the Union pour le progrès national (UPRONA), which remains factionalized between the followers of the Chairman of the UPRONA parliamentary group, Frédéric Ngenzebuhoro, and those of the extremist wing led by Chairman Charles Mukasi. These divisions are exacerbated by the hard-line Parti pour le redressement national (PARENA), led by former President Bagaza, who continues to enjoy strong support among Tutsi youth and students.

5. The continuing hostility between political parties continues to prevent progress in the national debate advocated by the Government, and to hamper international efforts to bring the parties to the negotiating table. Extremists on both sides continue to disrupt reconciliation efforts by threatening and undermining the President. Anti-Buyoya sentiments culminated in mid-March 1997 with the discovery of an assassination plot against the President. Swift action against the alleged perpetrators resulted in large numbers of arrests. Former President Bagaza is still under house arrest and members of his PARENA party are still detained.

6. On a more positive note, and despite these troubling developments, the restoration of the National Assembly in September 1996 has increasingly provided a forum for more regular political activity and dialogue among politicians of the different factions. Although the Assembly itself remains ineffective and has lost much of its original influence on the political process, as noted in the previous report, it was able nonetheless to carry out some valuable work. The Speaker of the National Assembly, Mr. Léonce Ngendakumana, still has a crucial role to play in efforts to harmonize relations among the various segments of the population, particularly as the Assembly continues to be challenged by the deep-rooted antagonism between its two main parliamentary groups - UPRONA and FRODEBU. In closing the Assembly's ordinary session in June 1997, the Speaker welcomed the fact that most of its members were able again to participate in the proceedings of the Assembly, and that many of the elected representatives had been able to return from exile. However, in order for the Assembly to fully carry out its constitutional responsibilities a number of obstacles have to be resolved. They include putting an end to the judicial harassment of the Speaker and providing the Assembly with the necessary financial and logistical support for its regular work.

7. A further positive development was the re-emergence on the political scene of former President Silvestre Ntibantunganya, who on 7 June 1997, left his refuge at the residence of the United States Ambassador in Bujumbura, after securing assurances from the Government of his freedom and security. Mr. Ntibantunganya pledged himself to strive to civilize the political debate in Burundi and to contribute to the normalization of political life in the country. He also declared his readiness to join peace talks with a view to ending the civil war between the armed opposition and the army. It is hoped that Mr. Ntibantunganya's presence will have a positive impact on efforts to achieve party and national reconciliation.

III. SECURITY SITUATION

8. Since November 1996, the security situation has continued to be affected both by political developments inside Burundi and by military and political

developments in the subregion. At the end of 1996, rebel attacks and army counter-operations led to a series of violent clashes throughout the country - but particularly concentrated in the northern provinces of Cibitoke, Bubanza, Muramvya and Kayanza, where violent incidents claimed a large number of victims among the civilian population. The situation in and around the capital, Bujumbura, remained tense and very volatile.

9. With the advance of the Allied Democratic Forces for the Liberation of the Congo (ADFL) in eastern Zaire and the consequent elimination of rear bases of armed Hutu rebels close to the Burundi-Zaire border, the security situation in Burundi gradually improved during the first months of 1997, though strong pockets of rebels remained within the former Zaire (now the Democratic Republic of the Congo) near Fizi, Kalemie and Moba - enabling them to launch operations against targets in Burundi, including the Government's military strongholds of Bururi and Makamba provinces. Overall, however, the massive movement of Hutu rebels along the western shores of Lake Tanganyika and across the Lake into the United Republic of Tanzania ultimately caused a shift in rebel operations towards the south. The resulting rebel infiltration from the United Republic of Tanzania into the southern provinces of Burundi caused a rift between the two Governments, with accusations that the United Republic of Tanzania was not only harbouring rebels but actively supporting the insurgency. These accusations have been denied by the Government of the United Republic of Tanzania.

10. In March 1997, the areas in and around Bujumbura increasingly became targets of rebel attacks. Mine explosions caused dozens of victims as did counter-insurgency operations by the military - a situation aggravated by the detection of an assassination plot against the President (see para. 5 above). Another very disturbing incident occurred on 1 July 1997 when a landmine exploded under the car of the Speaker of the National Assembly which was carrying his wife and a bodyguard. While the wife of Mr. Ngendakumana escaped unharmed the bodyguard died. Meanwhile, faced with an enormous increase in rebel activity in the south of the country, the Government decided to establish a special crisis committee dealing with security issues. Reports were also received from Rumonge commune in Bururi province, of allegations that rebels had killed more than 145 people.

11. Fierce clashes between the rebels and army units continued to shake Burundi in April, accompanied by claims and counter-claims on the responsibility for the killing. In one particularly vicious incident - attributed to the rebels - 34 schoolchildren and seven teachers were killed in an attack at a secondary school in Buta, south of Bururi. In May, heavy fighting continued in the southern provinces, causing international aid agencies to evacuate their staff. Violence also flared up again in the north-west where rebels attacked regroupement camps (see sect. V below) in Murwi and Buganda, killing some 63 people. Throughout May and June, fierce fighting was reported close to Bujumbura, including the slaughter on 14 May 1997 of 42 persons at a church in Muhuta commune. On 3 June 1997, the army used mortars and aircraft to rocket rebel positions near Bujumbura, following severe battles with rebels on the outskirts of the capital.

12. As the violence continued unabated throughout the month of June, rumours were spread by the rebels that neighbouring countries were preparing to invade

Burundi in support of the current regime. Military sources, in contrast, claimed that the rebels wanted to establish a bridgehead on Burundi territory in order to press forward their rebellion with the support of the international community. Throughout the period under review, reports also continued to be received of increased faction fighting among the Hutu rebels - between the Parti pour la libération du peuple hutu (PALIPEHUTU) and the armed wing of CNDD. Reports were also received that former soldiers from the ex-FAR (Forces armées rwandaises), members of the Interahamwe militia and even former soldiers of the ex-Zairian army were involved in attacks alongside Hutu rebels in north-western Burundi or caught in clashes on their way from eastern Zaire back into Rwanda. In response, regional and military officials from northern Burundi and southern Rwanda agreed in principle to cooperate on security matters and to extradite each other's rebels. Although bilateral security arrangements could not be confirmed officially, it is apparent that supportive arrangements continue to be carried out in the border areas between the two countries.

IV. HUMAN RIGHTS

13. The number of people detained on suspicion of involvement in massacres and of supporting the armed Hutu rebels has risen to some 5,000. After an interruption of a few months, the criminal courts began to function again on 26 February 1996. Many of the first trials were conducted without proper legal representation of the accused, despite demands from defendants for defence lawyers to be made available. Owing to the social and political sensitivities and pressures inherent in the trials, many Burundian lawyers declined to undertake representation of such defendants, and increasing calls were made for assistance from the international community. The first trials in 1996 resulted in noticeably heavy sentences, including 133 death sentences and 54 life sentences. Only 36 acquittals were obtained during the initial round of trials.

14. Faced with demands for counsel to be provided for the accused, the Burundi Justice Ministry - in collaboration with the National Bar Association, the United Nations Centre for Human Rights, the Office of the Special Representative of the Secretary-General in Burundi and various local human rights organizations - discussed ways in which financing might be obtained for the employment of national and international lawyers who would assist accused persons in obtaining counsel. At the end of 1996, following these discussions, a judicial assistance programme was established by the Office of the United Nations High Commissioner for Human Rights, in cooperation with the Government of Burundi. Implementation of the project began immediately, thereby facilitating the opening of the first session of the criminal courts in February 1997. In April and May 1997, the second session of the criminal courts was held in the presence of international lawyers who collaborated with national lawyers in acting as defence counsels or as civil party lawyers. A remarkable reduction in the sentence levels has been noted, with only 13 death sentences and 10 life sentences so far being recorded, in addition to 14 acquittals.

15. The atmosphere of the initial trials, which had been tense and subject to strong public pressure, has gradually given way to a more calm and dispassionate environment. The presence of lawyers at the side of the accused has helped to reduce tensions and promote greater attention to legal requirements. Many of

the cases under consideration extended beyond the expected time-frame, as postponements enabled some defendants to prepare a better defence, while the absence of witnesses co. plicated and delayed the trials of others.

16. With respect to the administration of justice, however, it must also be noted that the situation of these defendants remains in marked contrast to that of the suspected authors of the attempted October 1993 coup - most of whom remain free. Only a few were apprehended during the hours after the coup, and while some have fled to other countries others remain in Burundi. Although public opinion continues to demand their arrest, many continue to go about their usual business with apparent impunity.

17. A significant, though largely symbolic, step was taken with the commencement by the Buyoya Government of criminal proceedings against 79 military officers accused of having fomented the October 1993 coup. On 16 May 1997, the prosecution opened its case, alleging that the group had been responsible for the death of President Melchior Ndadaye, the first democratically elected Hutu President of Burundi. The accused proclaimed their innocence and the proceedings were adjourned. The trial resumed on 4 July 1997, with the accused providing additional testimony, after which the case was again adjourned. No date has been set for the resumption of the proceedings. While the commencement of proceedings against the 79 officers is an important first step, much more will be required if the administration of justice in Burundi is to regain genuine credibility.

18. On 14 June 1997, President Buyoya publicly called for the establishment of an international criminal tribunal for Burundi, in order to try the instigators and perpetrators of acts of genocide that followed the October 1993 coup. In response to a recent letter addressed to me by the Government of Burundi on the creation of an international tribunal, I replied that given the circumstances prevailing in Burundi I was not in a position to recommend to the Security Council the establishment of such a tribunal at the present time. It is my intention to remain seized of the matter, however, and to review the question of the establishment of such a tribunal at a later date. I will, of course, keep the Council fully informed of developments in this regard.

V. HUMANITARIAN SITUATION

19. The extensive fighting in the north and south of the country has displaced a significant proportion of the population and made it difficult for humanitarian aid agencies to conduct a consistent and effective relief programme. At the same time, landmines have become an increasingly pervasive source of danger to aid workers and civilians alike. Nyanza Lac in the south, which has recently suffered an outbreak of cholera, has not been accessible to United Nations aid agencies because of fighting in the area. Therefore, the humanitarian situation in Burundi remains, despite the easing of sanctions, extremely serious owing to two main factors, namely, the high degree of insecurity in the country and the concentration of the rural population from conflict-prone areas into regroupement camps.

20. Regroupement, the policy of collecting people in camps, an exercise initiated by the former Government in March 1996, accounts for over 300,000 persons living in sites or camps. The number of people displaced by fighting and insecurity amounts to more than 350,000. According to recent estimates, the number of vulnerable persons in rural areas now totals some 700,000. Out of a population of an estimated 6 million, approximately one out of nine Burundians lives in a camp, often in poor sanitary conditions.

21. Repeated displacement of rural populations, together with the existence of regroupement camps in areas often remote from family agricultural production areas, has severely disrupted agricultural production as well as the distribution of agricultural products. This situation has been greatly exacerbated by the sometimes deliberate destruction of fields and livestock by the warring protagonists. Significant environmental damage has also occurred in some areas as a result of deforestation by refugees and displaced persons, and also acts of sabotage. In January 1997, a joint Food and Agriculture Organization of the United Nations (FAO) and World Food Programme (WFP) assessment mission to Burundi found that food production had declined by an estimated 18 per cent during the first agricultural season of 1997 compared with pre-crisis levels.

22. Humanitarian agencies have been pressing the Government of Burundi to reverse its regroupement policy on humanitarian grounds, and to facilitate wider access to vulnerable groups in order to relieve the country's dire humanitarian plight. The Government of Burundi has also been persistently pressed by the broader international community to dismantle the existing regroupement camps. On 28 May 1997, I wrote to President Buyoya expressing my own concern about these camps and urging him to take concrete actions to start phasing out those in secure areas. The President replied that regroupement was not a policy but a temporary measure to ensure the safety of people in certain areas of the country. He reaffirmed his pledge to dismantle the camps located in areas where relative security has again been attained. However, only one small regroupement centre has been dismantled to date. The intention of some provincial officials to dismantle camps only to create smaller ones closer to the homes of the regrouped have caused consternation among the aid community and led many observers to conclude that the Government is unlikely to fully abandon the regroupement policy in the foreseeable future. The United Nations continues to provide humanitarian assistance to regroupement camps but only on the basis of assessed needs and under strict monitoring.

23. As far as refugees are concerned, about 130,000 have returned since 1996. While many of these refugees have returned spontaneously to safe areas in Burundi, the Office of the United Nations High Commissioner for Refugees (UNHCR) reports that 150 to 200 are fleeing daily from the Bururi and Makamba provinces to the United Republic of Tanzania out of fear of being caught in the fighting in these provinces.

VI. MEDIATION EFFORTS

24. National and international political mediation efforts have continued throughout the period under review, and although some important positive

developments have taken place, a significant breakthrough has yet to be achieved. Mediation efforts have followed three linked but distinct tracks: the ongoing regional mediation effort led by former Tanzanian President Julius K. Nyerere; the talks between the Government and CNDD under the auspices of the San'Egidio Community in Rome; and the more recent United Nations and Organization of African Unity (OAU) decision to appoint a Joint UN/OAU Special Representative for the Great Lakes Region.

25. Former President Nyerere remains the principal international Mediator for the conflict in Burundi, and the focal point for international efforts to achieve a ceasefire and bring about comprehensive political negotiations among the parties. A cessation of hostilities in Burundi has continued to be a matter of high priority for the international community, while the Government of Burundi has repeatedly stressed the need to reassess the economic sanctions imposed on the country. At a meeting in Lomé, during the course of the Summit Meeting of the Central Organ of the Organization of African Unity Mechanism for Conflict Prevention, Management and Resolution, held on 26 and 27 March 1997, President Buyoya made the case for lifting the sanctions. To all of his interlocutors, he conveyed his strong belief that sanctions not only hurt the more vulnerable segments of the population but also hindered national reconciliation and strengthened the extremists.

26. Ahead of the Fourth Arusha Regional Summit, which was to be convened on 16 April 1997 to review economic sanctions against Burundi, former President Nyerere took the initiative to invite Burundi political parties for another round of talks. Although several parties welcomed the initiative, others expressed lack of confidence in the Mediator and declared that no talks were possible unless economic sanctions were lifted. The Arusha Summit itself, attended by President Buyoya, called upon the Government of Burundi and all the parties to the conflict to take steps to urgently create the necessary environment for negotiations and national reconciliation. The Summit also decided to ease some of the sanctions and agreed on the need to ensure the speedy and efficient implementation of the exemptions provided for humanitarian assistance. The participants declared their readiness to suspend all sanctions once there was movement in the negotiations.

27. At a follow-up meeting on 10 May 1997 in Kampala, no agreement was reached on the list of products to be exempted from the regional sanctions regime. At the end of June, the Government of Burundi expressed its disappointment that sanctions had still not been eased, and its concern that the embargo was exacerbating tensions in the country. On 27 June, the Government of Kenya decided to lift the fuel and travel embargo against Burundi, for humanitarian reasons. A number of countries in Central Africa are gradually lifting the embargo as well.

28. While discussions on sanctions and their possible relaxation were going on, representatives of the Government and CNDD were engaged, with the blessing of Mwalimu Nyerere, in direct secret talks under the auspices of the San'Egidio Community in Rome. Despite a difficult start and after various problems had been overcome, the two-party talks concentrated on the need to stop the fighting in Burundi and to secure a permanent ceasefire. On 10 March 1997, both parties

agreed on the broad agenda that should guide their talks. The agenda included the following items:

(a) The restoration of constitutional and institutional order;

(b) Issues related to the Burundi armed forces and police;

(c) The suspension of hostilities;

(d) The administration of justice, including the creation of an international criminal tribunal to try acts of genocide and political crimes;

(e) The identification and involvement of other parties in the negotiation process;

(f) A permanent ceasefire;

(g) Guarantees for the respect and the implementation of the agreement.

29. The public announcement on 13 May of the agreement and confirmation of the secret talks between the Government and CNDD drew harsh criticism from many sectors of Burundi society, across the political spectrum. Those not represented in Rome felt excluded from the discussions, which they felt should have taken place in a wider, multi-party environment. Trade unions, student organizations and some political groups condemned the talks out of fear that concessions made to the Hutu opposition, particularly CNDD, might compromise their own political viability. Opposition to the process begun in Rome has continued to mount among extremists and has compelled President Buyoya to engage in an intensive campaign throughout the country. By contrast, reactions from the opposition were more positive. The Speaker of the Assembly took a strong position in favour of the Government.

30. On 21 May 1997, President Buyoya wrote to former President Nyerere outlining the various steps the peace process in Burundi should follow and asking him to organize as soon as possible all party negotiations under the Mwalimu's auspices. He also reaffirmed his readiness to work closely with him to organize these negotiations. Efforts by the Mediator to convince the various political parties to accept all-inclusive political talks under his aegis have yet to succeed. In preparation for these multi-party talks, which are now scheduled for the end of July, former President Nyerere dispatched on 5 July a mission to Burundi to take stock of the political situation and encourage all parties concerned to participate in the negotiations.

31. In order to consolidate the ranks of those who are for peace, it is imperative that opportunities for dialogue and debate, both within civil society and between political parties, be created and promoted. In this connection, I have instructed the United Nations Office in Burundi to support all initiatives aimed at promoting peace and reconciliation among the population, including the national debate and the activities of the Speaker of the Assembly. In this regard, it is important to mention that the United Nations Office has played a constructive role in promoting dialogue and reconciliation among the major political actors, particularly during tense periods, and has maintained good

working relations with the Government and the Parliament. It has also kept me fully informed of the major developments in Burundi. As I informed the Security Council on 25 June, I intend to strengthen this Office by the appointment of a senior official and one additional political affairs officer, in order better to support the peace process in Burundi.

32. In support of the efforts of the Mediator and of the process begun in Rome, the Security Council on 24 January 1997 approved a joint proposal from myself and the Secretary-General of the Organization of African Unity, Mr. Salim A. Salim, to appoint Ambassador Mohamed Sahnoun as our Joint Special Representative for the Great Lakes Region, with priority attention to be given to Congo (ex-Zaire) and Burundi. Ambassador Sahnoun, who has visited Burundi several times, continues to follow events in that country very closely. He developed a relationship of trust with many of the actors inside and outside Burundi and particularly with President Buyoya, with the Speaker of the Parliament and with former President Ntibantunganya. He played a very important facilitative role on the eve of the Fourth Arusha Summit. In addition to meeting with Mwalimu Nyerere and President Mkapa in Dar es Salaam, Ambassador Sahnoun consulted in Arusha with President Buyoya and with all the parties who were present there. His contributions have been appreciated by all.

VII. OBSERVATIONS

33. President Buyoya's determination to pursue all-inclusive negotiations has resulted in improved relations between the Government and those who are interested in advancing a negotiated and peaceful settlement of Burundi's conflict. I am particularly encouraged by the new willingness shown by President Buyoya and his Government to cooperate with a variety of international actors in order to help find solutions to Burundi's persistent problems, and by the gradual rapprochement between the President, the Government and the National Assembly. Should these positive trends continue, Burundi will be able to establish the conditions necessary for the further easing of sanctions. The stubborn and unrelenting opposition to any kind of political settlement must not be allowed to close the promising window of opportunity that has opened.

34. The efforts of former President Nyerere to induce the different political parties to meet at the negotiating table will continue to receive my full support. Despite the difficulties and reservations expressed by certain parties, it is clear that he will continue to play an important role in promoting a comprehensive settlement of the conflict in Burundi, since he enjoys the confidence of the Heads of State of the region. With the appointment of the Joint UN/OAU Special Representative for the Great Lakes Region, I hope that new impetus will be given to efforts by the international community to address the underlying causes of conflict and instability in Burundi.

UNITED
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Security Council

Distr.
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S/1997/548
15 July 1997
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 14 JULY 1997 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith the text of the letter dated 14 July 1997 addressed to you by Mr. Mohamed Said Al-Sahaf, Minister for Foreign Affairs of Iraq, on the subject of the actions of the United States Government and the measures it is taking to undermine the security and sovereignty of Iraq and to intervene flagrantly in its internal affairs.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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ANNEX

Letter dated 14 July 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

With reference to the letter I wrote to you on 4 November 1996 concerning the actions of the Government of the United States of America and the measures it is taking to undermine the sovereignty of Iraq and the unity of its territory, as well as to the flagrant intervention of that Government in the internal affairs of my country, I wish to draw your attention to the information which appeared in the Washington Post of 26 June 1997, as well as to that given in a television programme broadcast the same day on the American ABC network, which confirmed that the United States Government continues to pursue towards Iraq an official policy based on intervention in the internal affairs of my country, and to take measures and engage in concrete and deliberate action designed to threaten the national security of Iraq and place it in danger.

The information which appeared in the Washington Post under the title "How CIA's Secret War on Saddam Collapsed", along with the information given in Peter Jennings' television programme under the title "Unfinished Business: The CIA and Saddam Hussein", contains inter alia testimony from top-ranking officials in the United States Administration and other allied agents which clearly and unambiguously demonstrates the extent of the plot concocted by the Government of the United States of America to change the regime in power in Iraq.

The Washington Post article states that Warren Marik of the CIA said he did everything he could think of and was permitted to do in order to overthrow President Saddam Hussein. He also claims to have organized flights of unmanned aircraft over Baghdad to drop leaflets hostile to Iraq, and he organized military training and arms supplies to rebels in northern Iraq. He oversaw spending of millions of dollars to produce radio scripts and video tapes designed to encourage an uprising against the Iraqi political regime and used every possible means, including arms and money, to separate the north from the rest of Iraqi territory, despite the obvious and undeniable commitment of the Iraqi people to territorial unity under the leadership of President Saddam Hussein, even though the Iraqis consider him to be the symbol of independence, as confirmed by his election to the Presidency of the Republic of Iraq by an overwhelming majority. Marik also states that he persuaded a lackey named Ahmed Chalabi and the members of the so-called Iraqi National Congress to work for the CIA and recruited various groups of agents and mercenaries to organize an armed attack against the institutions of the Iraqi State. He organized an attempted coup d'état against the regime. Warren Marik has acknowledged that considerable sums of money, at least $100 million, were swallowed up by these efforts, just as he has acknowledged the role played by the United States Senate Intelligence Committee in mounting a secret action against the legitimate authorities of Iraq and preparing a programme of aggression against Iraq to topple the regime in power, despite the duplicitous statements by senior United States Administration officials to the effect that they would not use such heinous procedures against foreign Heads of State. Marik adds that he and the group which accompanied him in the north of Iraq

launched a political programme aimed at reducing the authorities' control over the country until it was limited solely to the city of Baghdad, as the CIA had done earlier in Afghanistan and against the Soviet Union during the cold war. This reveals the true nature of the goal pursued by the Government of the United States through the establishment of two no-fly zones in the north and south of Iraq, even though the zones have no basis at all either in the Charter of the United Nations or the relevant resolutions of the Security Council. Warren Marik says inter alia that the former President of the United States, George Bush, ordered the CIA to organize sabotage operations in order to topple the regime in power in Iraq. Mention should also be made of the establishment by the CIA of radio and relay stations to broadcast hostile propaganda to Jeddah, Kuwait, Cairo and Amman in which Iraqi officers, among others, were urged to desert and abandon the Iraqi armed forces. The author of the article states also that the United States Senate Intelligence Committee authorized the CIA to set up a secret, semi-permanent American group in the north of Iraq to train rebels, outlaws and bands of brigands and mercenaries and to supply them with matériel to conduct sabotage, assassination and plundering operations with a view to toppling the political regime in power. Two members of the Senate Intelligence Committee illegally entered the north of Iraq, thereby demonstrating the extent to which the United States was prepared to trample on Iraqi national sovereignty. Warren Marik also revealed the existence of a plan aimed at launching an armed attack on 4 March 1995 against garrisons of the Iraqi army at Mosul and Kirkuk. The attack was to be led by rebels, saboteurs, brigands and outlaws. The article also states that the CIA agent asked the CIA lackey Ahmed Chalabi to use his contacts with the ayatollahs in power in Iran to convey to them the message that "Washington would look with favor on Iran moving troops along its border to distract Saddam as the offensive began". A meeting did indeed take place in Salahuddin with two Iranian intelligence operatives, which testifies to the nature and magnitude of the conspiracy and highlights the duplicity and immorality of the conduct of the United States and its policy of aggression against Iraq.

As to the televised broadcast prepared by Peter Jennings, which covered events similar to those reported in the Washington Post article, it is enough to mention what was said regarding United States President Clinton's statement that his policy of economic sanctions and military containment was designed to muzzle Iraq. These words of the United States President are sufficiently hostile in themselves. However, it is becoming increasingly evident every day that the statement just cited contradicts the truth, since, as Jennings said, belying President Clinton's words, "Such was not the initial objective". It is quite obvious that all the past acts committed by the United States Administration and those which it continues to commit are not aimed at implementing the Security Council resolutions and upholding international legality, as is claimed, but rather are targeted at the person of the Iraqi President. This was confirmed by Brent Scowcroft, the National Security Adviser of former President Bush, who in response to a question on the subject stated "Yes, I believe that that is true". John Deutch, former Director of Central Intelligence, confirmed to Peter Jennings that the intelligence operative who was in charge of organizing the armed attack in March 1995 informed his superiors about the schemes which he was preparing and implementing in the north of Iraq, as well as about the CIA payment of $6 million to former Iraqi army officers for supporting this base

operation and the secret introduction into Iraq of highly sophisticated transmission equipment making direct communication with the CIA possible.

The plot hatched against Iraq by the United States Administration is not limited to the use by United States officials of various odious methods designed to bring about a change in Iraq's political system, as described in the news items published by the Washington Post and broadcast by the American television network ABC: the United States Government also does not hesitate to use the Security Council and its resolutions to further its plot against Iraq.

In its 23 October 1991 issue, the French newspaper Libération published information given to it by a French expert serving on one of the inspection teams of the Special Commission of the Security Council presided over by Swedish Ambassador Rolf Ekéus. The following is an extract from the Libération article:

> "The other surprise for this expert was the behaviour of some of his American colleagues. There were obviously secret agents and CIA operatives who were working for their own organization rather than for the United Nations. Their job definitely involved gathering information, but it also involved behaving provocatively towards Baghdad in order to justify intervention by the United States Air Force, which would return to complete its mission."

This extract from the French newspaper article is only a drop in the ocean of evidence pointing to the United States Administration's overt and impertinent exploitation of certain inspection teams of the Special Commission presided over by Rolf Ekéus for the past six years. The reason for assigning these teams to tasks that were not part of their job or their mandate was obviously to enable spies from United States intelligence services to implement their country's hostile policy towards Iraq and to obstruct the Special Commission's work so that the infamous blockade imposed against Iraq could be maintained on pretexts that have nothing to do with the resolutions of the Security Council or the mandate of the Special Commission.

All of this shows beyond a shadow of doubt that the United States is engaging in military activities designed to overthrow the regime in power in Iraq and to foment a civil war in the country, by organizing, encouraging and funding the above-mentioned activities in violation of the Charter of the United Nations and, more particularly, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, as well as the principles of international law prohibiting the organization of such activities against another State. These activities are also in violation of Security Council resolutions on Iraq which reaffirm the need to respect the security and sovereignty of Iraq, the unity of its territory and its political independence.

These incontrovertible facts and evidence make it perfectly clear that all the allegations which the United States is constantly making against Iraq are simply slanders designed to conceal its evil acts of aggression against Iraq. The Security Council must therefore assume its responsibilities under the Charter of the United Nations and demand that the United States end its hostile

actions and cease its flagrant intervention in Iraq's internal affairs and its threats to Iraq's security, sovereignty and territorial integrity.

The Government of the Republic of Iraq formally requests that you look into this grave matter and work seriously for an end to these illegal actions, which form part of official United States policy.

I should be grateful if you would have the text of this letter distributed as a document of the Security Council.

(Signed) Mohamed Said AL-SAHAF
Minister for Foreign Affairs of Iraq

UNITED NATIONS **S**

Security Council

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S/1997/549
15 July 1997
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 15 JULY 1997 FROM THE CHARGE D'AFFAIRES OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith a letter to you from Mr. Abuzid Omar Dordah, Permanent Representative of the Libyan Arab Jamahiriya to the United Nations, concerning the position stated by the Security Council at its sixteenth meeting devoted to the review of the sanctions imposed on the Libyan Arab Jamahiriya.

I should be grateful if you would have this letter and the annex thereto circulated as a document of the Security Council.

(Signed) Ali S. MUNTASSER
Deputy Permanent Representative
Chargé d'affaires a.i.

Annex

Letter dated 15 July 1997 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

With reference to the negotiations that took place at the sixteenth meeting devoted to consideration of the air embargo imposed on the Libyan Arab Jamahiriya, which took place on 10 July 1997, I wish to make the following points:

- My country expresses its profound gratitude to the members of the Security Council who ensured that the review conducted at the above-mentioned meeting was meaningful and enabled the Council to fulfil its role, at least in terms of debate and the expression of views;

- I note with great regret the manner in which the United States of America and the United Kingdom of Great Britain and Northern Ireland exploited the Council's method of work, namely, seeking to achieve a convergence of views, in order to prevent the Council from taking any concrete action and to ensure that the positive initiatives taken and the convictions reached by other members met with failure. This exploitation of the Council's method of work is an approach that has become habitual on the part of the two States in question, which seek thus to impair the Council's effectiveness and to prevent it from assuming its responsibilities;

- My country notes with satisfaction the content of the respective letters from the Secretaries-General of the League of Arab States and the Organization of African Unity, expressing the profound conviction of the leaders of the Arab and African States, who have been seeking since the outset to find a peaceful, equitable and impartial solution to the case against the Libyan Arab Jamahiriya completely fabricated by the two above-mentioned States;

- It was reaffirmed in the course of the recent negotiations in connection with the review of the sanctions that there is no dispute between my country and the Security Council, and that the dispute is between my country and the United States and the United Kingdom, as we have already repeatedly stated. These two States' claim that the dispute is between the Libyan Arab Jamahiriya and the Council is merely an obvious attempt on the part of those States to hide behind the Council;

- It has been established that it is the United States and the United Kingdom that are obstructing implementation of the Security Council's resolutions on the Lockerbie case, and that the persistence of the

demonstration of the innocence of the two Libyan suspects. A just and impartial court will establish the truth, of which the United States

is well aware, namely that these two Libyans are not the guilty ones, a fact that the United States wishes to conceal;

- Preventing the Security Council from sending a commission or an envoy to the Libyan Arab Jamahiriya to investigate and verify implementation of Security Council resolution 748 (1992), paragraph 2, unquestionably confirms what we have already said, namely, that the true intention of the United States - which is not to establish who was really responsible for the Pan Am flight 103 disaster - is of a strategic nature and directed against the current Government of the Libyan Arab Jamahiriya, with a view to taking possession of the Libyan Arab people's wealth, particularly petroleum and gas - the Lockerbie case being no more than a pretext for the purpose of achieving that imperialist goal.

The Libyan Arab Jamahiriya therefore wishes to state the following:

1. The Libyan Arab Jamahiriya has, for its part, responded fully to the demands made in the relevant Security Council resolution, particularly in accepting that the two Libyan suspects should appear before a fair and impartial court, outside the climate prevailing in the United States and the United Kingdom, where they are presumed guilty.

2. It is the United States and the United Kingdom that are preventing a court from swiftly trying this case, they alone bear this responsibility and sanctions should be imposed on those two States, since they are obstructing a process implementing the relevant Security Council resolutions.

The Libyan Arab Jamahiriya therefore, while expressing once again its profound respect for the Security Council, draws the Council's attention to the following:

1. The Libyan Arab Jamahiriya reserves the right to take the necessary steps to safeguard its legal and political rights;

2. The Libyan Arab Jamahiriya reaffirms its right to claim compensation for the damage and injury suffered as a result of the false accusation in question and the unjust resolutions applied against it.

(Signed) Abuzid Omar DORDAH
Permanent Representative of the
Libyan Arab Jamahiriya to the
United Nations

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LETTER DATED 15 JULY 1997 FROM THE CHARGE D'AFFAIRES OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith a letter to you from Mr. Abuzid Omar Dordah, Permanent Representative of the Libyan Arab Jamahiriya to the United Nations, concerning the position stated by the Security Council at its sixteenth meeting devoted to the review of the sanctions imposed on the Libyan Arab Jamahiriya.

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Annex

Letter dated 15 July 1997 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

With reference to the negotiations that took place at the sixteenth meeting devoted to consideration of the unjust embargo imposed on the Libyan Arab Jamahiriya, which took place on 10 July 1997, I wish to make the following points:

- My country expresses its profound gratitude to the members of the Security Council who ensured that the review conducted at the above-mentioned meeting was meaningful and enabled the Council to fulfil its role, at least in terms of debate and the expression of views;

- I note with great regret the manner in which the United States of America and the United Kingdom of Great Britain and Northern Ireland exploited the Council's method of work, namely, seeking to achieve a convergence of views, in order to prevent the Council from taking any concrete action and to ensure that the positive initiatives taken and the convictions reached by other members met with failure. This exploitation of the Council's method of work is an approach that has become habitual on the part of the two States in question, which seek thus to impair the Council's effectiveness and to prevent it from assuming its responsibilities;

- My country notes with satisfaction the content of the letter from the Secretaries-General of the League of Arab States and the Organization of African Unity, expressing the profound conviction of the leaders of the Arab and African States, who have been seeking since the outset to find a peaceful, equitable and impartial solution to the case against the Libyan Arab Jamahiriya completely fabricated by the two above-mentioned States;

- It was reaffirmed in the course of the recent negotiations in connection with the review of the sanctions that there is no dispute between my country and the Security Council, and that the dispute is between my country and the United States and the United Kingdom, as we have already repeatedly stated. These two States' claim that the dispute is between the Libyan Arab Jamahiriya and the Council is merely an obvious attempt on the part of those States to hide behind the Council;

- It has been established that it is the United States and the United Kingdom that are obstructing implementation of the Security Council's resolutions on the Lockerbie case, and that the persistence of the United States, in particular, in deferring the trial amounts to a demonstration of the innocence of the two Libyan suspects. A just and impartial court will establish the truth, of which the United States

is well aware, namely that these two Libyans are not the guilty ones, a fact that the United States wishes to conceal;

- Preventing the Security Council from sending a commission or an envoy to the Libyan Arab Jamahiriya to investigate and verify implementation of Security Council resolution 748 (1992), paragraph 2, unquestionably confirms what we have already said, namely, that the true intention of the United States - which is not to establish who was really responsible for the Pan Am flight 103 disaster - is of a strategic nature and directed against the current Government of the Libyan Arab Jamahiriya, with a view to taking possession of the Libyan Arab people's wealth, particularly petroleum and gas - the Lockerbie case being no more than a pretext for the purpose of achieving that imperialist goal.

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(Signed) Abuzid Omar DORDAH
Permanent Representative of the
Libyan Arab Jamahiriya to the
United Nations